(29,122)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 572.

DOMINGO DIAZ A. *ET AL.*, APPELLANTS,

vs.

GUILLERMO PATTERSON.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

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UNITED STATES OF AMERICA:

United States Circuit Court of Appeals, Fifth Judicial Circuit.

Pleas and proceedings had and done at a regular term of the United States Circuit Court of Appeals for the Fifth Circuit begun on the third Monday in November, A. D. 1921, at New Orleans, Louisiana, before the Honorable Richard W. Walker, the Honorable Nathan P. Bryan, and the Honorable Alex. C. King, Circuit Judges.

DOMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Be it remembered, That heretofore, to-wit, on the 28th day of January, A. D. 1922, a transcript of the record in the above styled cause, pursuant to an appeal from the District Court of the United States for the Canal Zone, was filed in the office of the Clerk of the said United States Circuit Court of Appeals for the Fifth Circuit, which said transcript was filed and docketed in said Circuit Court of Appeals as No. 3835, as follows, to-wit:

TRANSCRIPT OF RECORD.

United States Circuit Court of Appeals, Fifth Circuit.

No. 3835.

DOMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Appeal from the District Court of the United States for the Canal Zone.

[Original record filed January 28, 1922.]

U. S. Circuit Court of Appeals. Filed Mar. 10, 1922.
FRANK H. MORTIMER,
Clerk.

PART 1.

UNITED STATES OF AMERICA.

UNITED STATES DISTRICT COURT IN AND FOR THE CANAL ZONE.

DOMINGO DIAZ A., ET AL.,
Appellants,

versus

No. 199.

GUILLERMO PATTERSON,
Appellee.

C. P. Fairman, Esquire, for Domingo Diaz, et al., Appellants.

Todd & MacIntyre, Esquires, (W C. Todd and Wm. C. MacIntyre), for Guillermo Patterson, Appellee.

Appeal from the United States District Court, District of the Canal Zone, returnable into the United States Circuit Court of Appeals for the Fifth Circuit, within thirty (30) days from the 17th day of October, A. D. One thousand, Nine hundred and Twenty-one, at the City of New Orleans, State of Louisiana, U. S. A.

TRANSCRIPT OF RECORD.

(a) TO QUIET TITLE TO LAND.

United States of America.

United States District Court in and for the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

Appeal from the United States District Court, Balboa Division, Canal Zone,—June 3, 1921.

United States of America,
Canal Zone. SS.

Pleas before the Honorable John W. Hanan, Judge of the United States District Court, in and for the Canal Zone, at the January term thereof begun and holden at Ancon, in the Balboa Division, in the Court House of said District Court, on the 15th day of January, in the year of our Lord, one thousand nine hundred and twenty-one, and prior thereto, pursuant to the mandate and opinion of the Circuit Court of Appeals for the Fifth Circuit of February 9, 1920, wherein the above entitled cause was remanded to this said District Court for further proceedings not inconsistent with the opinion of the said Circuit Court of Appeals.

Present: Hon. John W. Hanan, Judge.
Hon. Miguel A. Otero, Marshal.
Judge C. P. Fairman, attorney for Plaintiffs.

Messrs. Todd and MacIntyre (W. C. Todd and Wm. C. MacIntyre), attorneys for Defendant.

Attest:

E. M. GOOLSBY,
Clerk.

And the following proceedings were had:

(b) LAND TITLE NOTICE.

(Annexed Advertisement).

United States of America, Canal Zone.

In the District Court in and for the Balboa Division, Ancon, Canal Zone.

Elisia Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs. Civil No. ...
Guillermo Patterson, Defendant.

To Guillermo Patterson and to all whom it may concern; take Notice:

That on the 23rd day of the month of November, A. D., nineteen hundred and seventeen a petition was filed by the undersigned in the District Court of the Canal Zone in and for the Balboa Division, to establish their title to the following described land situated in the said Division of Balboa, in the Canal Zone, as follows:

"Starting from the Mata Redonda, to the headwaters of the creek of the Platanar, and along the latter down stream, to its confluence with the creek "Palangana"

and following the natural course of this last mentioned creek until reaching a point parallel with the old royal pass of "Rio Hondo" at the place used for crossing in order to go from this city to "Mata Redonda", and following in a straight line to the said pass it continues along the royal road of "Mata Redonda" aforementioned as far as the place where the said road meets the boundary line between the Republic of Panama and the Canal Zone; therefrom it follows said boundary line in an easterly direction as far as monument marked "F" on said boundary line; and then it follows the said boundary line in a northwestern direction as far as the place where it meets a certain imaginary line that goes from "Mocambo" to the "Mata Redonda" and then follows this imaginary line in a southernly direction as far as the "Mata Redonda" which was the starting point."

Now unless you appear at the Court house on the 7th day of the month of January, nineteen hundred and eighteen, and show cause against such application, said petition shall be taken for confessed, and the title or interest of said petitioners will be deemed and established according to the prayer of said petition, and you forever barred from disputing the same.

DOMINGO DIAZ, A.,
Attorney-in-fact for the plaintiffs.

E. M. GOOLSBY,
Clerk of the Court.
Nov. 28; Dec. 3.—10.

(c) AFFIDAVIT OF PROOF OF PUBLICATION.

United States of America, Canal Zone.

In the District Court in and for the Balboa Division, Ancon, Canal Zone.

Elisia Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,

vs. Civil No. ...

Guillermo Patterson, Defendant.

District Court,
Ancon. SS.

Personally appeared before me, the undersigned Clerk of the District Court of the Canal Zone, Balboa Division, at Ancon, A. A. Goti C., who, being duly sworn, on oath states that he is the Book-keeper of the "Star & Herald", a daily newspaper circulating in the Canal Zone and that the advertisement, of which the annexed is a true copy, was published in the said newspaper, three (3) times, to-wit, on the following dates: on the 28th day of November and on the 3rd and 17th days of December, nineteen hundred and seventeen.

(Signed) A. A. GOTI C.

Subscribed and sworn to before me this 17th day of December, nineteen hundred and seventeen.

(Signed) E. M. GOOLSBY,
District Court Clerk.

Filed December 17, 1917, in the Office of the Clerk of the District Court, Canal Zone. (Sgd.) E. M. Goolsby, Clerk.

1 TO QUIET TITLE LAND.

Minutes.

United States of America, Canal Zone.

In the United States District Court, in and for the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

Appearances:
C. P. Fairman, for the Plaintiffs.
Todd and MacIntyre, (W. C. Todd), (Wm. C. MacIntyre), for the Defendant.

On this fifteenth day of January, 1921, the parties to this action are in open Court by their attorneys, respectively, this case being called the plaintiffs are given until the first day of the second week of the February term of this Court within which to file an amended complaint herein.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this fifteenth day of February, 1921, the attorney for the defendant announces that he is ready for trial,

and this case is set for call within the March term of this Court.

---

2 Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On the first day of April, 1921, the parties to this action are in open Court by their attorneys, respectively, and the plaintiffs are given until April 9, 1921, within which to file a complaint herein, and the case is now set for trial on April 12, 1921.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this eleventh day of April, 1921, this case being called the plaintiffs are in open Court by Domingo Diaz and by agreement with the defendant this case is continued for trial at a special session of the Court, which will be called on Monday, April 18, 1921, at which time this case shall be tried.—The plaintiffs' attorney being sick and unable to appear this day.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this fourteenth day of April, 1921, come the plaintiffs by their attorney and file their amended petition to establish interest in real property, which is in the following words and figures:

3 AMENDED PETITION TO ESTABLISH INTEREST IN REAL PROPERTY.

United States of America, Canal Zone.

In the United States District Court, District of the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs. Civil No. 199.
Guillermo Patterson, Defendant.

To the Honorable John W. Hanan, Judge of the United States District Court, District of the Canal Zone, Balboa Division:

The petitioners herein, Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., in support of the relief hereinafter prayed, respectfully represent and show unto your Honor as follows:

First. That the above named plaintiffs, and the above named defendant, Guillermo Patterson, are residents

of the City of Panama, Republic of Panama, and the subject of this action is real property situated within the Balboa Division of the Canal Zone, together with the funds derived from the expropriation thereof by the United States now deposited in the registry of this Court, all of which is within the jurisdiction of this Honorable Court.

Second. That the above named plaintiffs, and each of them are seized and possessed of an undivided estate of inheritance, in fee simply, of, in and to that part and portion of the lands and estate known as "Lo de Caceres", situated within the Balboa Division of the Canal Zone, more particularly described as follows:

"Beginning at a point at and near the juncture or confluence of the waters of the streams called "Palangana", and "Platanar", and from thence in a straight line East, 14 degrees, 50 minutes North, 1350 meters to the stream called "Rio Hondo", at the place used for a crossing in order to go from the City of Panama to the estate of "Mata Redonda"; thence following the old royal road to a point on the Canal Zone boundary line, said point being East, 40 degrees South, 800 meters from the last mentioned point; thence North, 9 degrees, 30 minutes East, 2100 meters, to a point on said Canal
4 Zone boundary line; thence on and along the said boundary line separating the Canal Zone from the Republic of Panama, North 49 degrees 30 minutes West, 3790 meters to a point; thence South, 21 degrees East, 4200 meters to the point of place known as Pena Hueca to the center of a large hollow rock, and continuing thence to the headwaters of the stream called "Platanar", and following the said "Platanar" down stream to the point of beginning, the same being

South 47 degrees West, in a direct line, 1050 meters, from the said point or place called Pena Hueca; the said tract or parcel of land containing an area of 536 hectares, more or less.

Third. That the said plaintiffs derived their respective rights, title and estate in and to the above and foregoing described real estate, in the following manner and mode:

That the said lands and estate of "Lo de Caceres", was granted to private parties by the Spanish Crown in the year 1736, the same being in the form of a crown grant as set forth in exhibit "A" annexed to the original petition herein, to which reference is herewith made and adopted as exhibit "A" hereto, the said lands being therein described as follows:

"Starting from the side of the "Rio Hondo" at its source to the Brook in the neighborhood of "Pan de Azucar", and from this brook the boundary line describes a straight line to Matasnillo, and following said straight line until it reaches the source of another brook (small) which empties itself at the old city, and from the source of said small brook it follows a straight line to the summit of Sonsonate Hill and then to Gallinazo, and in the same manner until it reaches Mocambo, and from there the line in the same manner runs down to the source of "Rio Hondo", taking in the brook called Casteneda."

The said above estate being more particularly described as follows:

"Beginning at the source of the "Rio Hondo" and following the same down stream to its juncture with a small stream near "Pan de Azucar", the said point of con-

fluence being South, 3 degrees, 30 minutes East, 2960 meters distant from the place of beginning; thence East, 30 degrees, 40 minutes North, 3309 meters, to a point of place called "Cabezeras", near the source of the stream called 'Cara-as qilla"; thence North, 8 degrees, 10 minutes West, 4350 meters to the hill called Sonsonate; thence North 61 degrees West, 5400 meters to the hill called "Mocambo"; thence South, 27 degrees East, 600 meters to the place of beginning, the said lands and estate of "Lo de Caceres" originally containing an area of 1580 hectares, more or less."

Fourth. That the said lands and estate of "Lo de Caceres", by virtue of subsequent conveyances after the Crown Grant of 1736, passed to the ownership of Don Pedro Miro, and in the year 1832, the said Don Pedro Miro, being at that time the owner of the adjoining estate of "Mata Redonda", by means of a public instrument executed before the Notary Public of Panama, October 12, 1832, conveyed the estate of 'Lo de Caceres" to Jose Garcia de Parades wherein said instrument the boundaries of the said estate are fixed as follows:

"From "Mata Redonda" to "Mocambo" in a straight line, and from the "Mata Redonda" on the side of "Pan de Azucar", the boundary shall be in accordance with the ancient titles."

The said above mentioned conveyance being annexed to the original petition herein as exhibit "B", to which reference is herewith made and adopted as exhibit "B" hereto.

The said estate of "Lo de Caceres", as established and modified by the said conveyance being more particularly described as follows:

"Beginning at a point in the center of a hollow rock known by the name of "Mata Redondo", said point being South, 23 degrees West, 850 meters from the headwaters or source of the "Rio Hondo"; and from the said point of beginning to the source or headwaters of the stream called "Platanar", and following the waters of this stream to the juncture with the waters of the stream called "Palangana", and continuing to a point thereon lying South, 47 degrees West, 1050 meters from the said point of beginning; thence in a straight line East, 14 degrees 30 minutes North, 1350 meters to the stream called "Rio Hondo", at the place used as a crossing in order to go from the City of Panama to the estate of "Mata Redondo"; thence following down stream the waters of the "Rio Hondo", to its juncture with a small stream near "Pan de Azucar", the said point of confluence being South, 9 degrees West in a direct line, 2110 meters from said last mentioned point; thence East, 30 degrees, 50 minutes North, 3300 meters to a point of place called "Cabezeras", near the source of the stream called "Carasquilla"; thence North, 8 degrees, 10 minutes West, 4350 meters to the hill called "Sonsonate"; thence North, 61 degrees West, 5400 meters to the hill called "Mocambo"; thence South, 21 degrees East, 6350 meters to the point of beginning; the said tract of land above described containing an area of 1730 hectares, more or less, and comprises within its boundaries the original estate of "Lo de Caceres", according to the Crown Grant of 1736, and the additional lands sold and conveyed by the said Don Pedro Miro to Jose Garcia de Parades, in the year 1832 as aforesaid."

Fifth. That the said estate of "Lo de Caceres", as set forth and described in the preceding paragraph here-

of, has been in the possession and ownership of the Paredes family, under said deed of purchase from Don Pedro Miro in the year 1832, until the 27th day of April, 1895, at which time, in settlement of the succession to said estate, it was put up for judicial public sale, the said judicial sale being had openly and
6 publicly in the manner provided by law, and at which said sale Mrs. Catalina Lewis de Garcia de Paredes, became the purchaser, as more fully appears from the translated copy of the proceedings thereunder, annexed to the original petition herein as exhibit "C", to which reference is herewith made and the same adopted as exhibit "C" hereto.

Sixth. That thereafter the said Mrs. Catalina Lewis de Garcia de Paredes, sold and conveyed eight-ninths (8/9) of the said lands of "Lo de Caceres", under the following deeds of title, all of said deeds being executed before Notary Public No. Two, of the City of Panama, and more particularly designated as follows:

Public Document No. 189, dated August 10, 1908.
Public Document No. 197, dated August 15, 1908.
Public Document No. 58, dated February 25, 1909.
Public Document No. 82, dated March 17, 1909.
Public Document No. 89, dated March 31, 1909.
Public Document No. 106, dated May 4, 1909.

Notarial copies whereof together with the translations being annexed to the original petition herein as exhibits "D", "E", "F", "G", "H", and "I", to which reference is herewith made and the same adopted as Exhibits "D", "E", "F", "G", "H" and "I", hereto.

Seventh. That the grantees of Mrs. Cataline Lewis de Garcia de Paredes, named in the Public Document mentioned and described in the preceding paragraph,

sold and conveyed their several respective interests in and to the estate of "Lo de Caceres", to Domingo Diaz, by means of subsequent deeds of transfer executed before Notary Public No. Two, in the City of Panama, the same being more particularly designated as follows:

Public Document No. 59, dated February 26, 1909.
Public Document No. 83, dated March 18, 1909.
Public Document No. 94, dated April 7, 1909.
Public Document No. 107, dated May 5, 1909.
Public Document No. 121, dated March 12, 1909.
Public Document No. 193, dated May 13, 1909.
Public Document No. 237, dated August 27, 1910.

Notarial copies whereof together with translations being annexed to the original petition herein as exhibits "J", "K", "L", "M", "N", "O" and "P", reference to which is herewith made and the same are adopted as Exhibits "J", "K", "L", "M", "N", "O", and "P", hereto.

7 Eighth. That the said Catalina Lewis de Garcia de Paredes, conveyed the remaining one-ninth (1/9) interest in and to the estate of "Lo de Caceres", to Domingo Diaz, by means of Public Document No. 135, executed before Notary Public No. Two, in the City of Panama, dated May 19, 1909, annexed to the original petition herein as exhibit "Q", reference to which is herewith made and the same adopted as Exhibit "Q" hereto.

Ninth. That the said Domingo Diaz, died on or about the 19th day of December, in the year 1912, and your petitioners herein are the sole surviving, legitimate heirs and legal representatives of the said deceased.

Tenth. And your petitioners further state that Guillermo Patterson, herein named as defendant, has or

claims to have some right, title or interest in and to the said lands and estate of "Lo de Caceres", or the portion thereof mentioned and described in the Second Paragraph hereof, the nature and extent of which said claim is to your petitioners herein unknown, but allege that in its entirety, the said claim is adverse to the ownership and title of your petitioners.

Eleventh. And your petitioners further state that they rely upon the provisions of Chapter X., Sections 271 to 290 inclusive, of the Code of Civil Procedure of the Canal Zone, and the substantive laws relating to real property as the same are set forth and contained in the Civil Code, to sustain their cause of action in this behalf.

Wherefore your petitioners pray that your Honor take cognizance hereof, and to that end summon all parties having or claiming to have any right, title or interest in and to the lands described in the Second Paragraph hereof, to be and appear before this Court on a day certain, then and there to assert their respective claims and demands against the said real estate, and to answer the allegations of this petition, and that upon final hearing hereof, your Honor will be pleased to decree, establish and confirm your petitioners in the absolute ownership, right and title in fee simple in and to the said lands, and to the fund heretofore deposited in the registry of this Court as the price thereof upon the expropriation by the United States, and your petitioners further pray for their costs and for such other and further relief as to justice and equity shall appertain.

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(Sgd.) C. P. FAIRMAN,
Attorney for Petitioners.

United States of America,
Canal Zone, SS.
Balboa Division.

Domingo Diaz A., of lawful age, being first duly sworn, deposes and says that he is one of the petitioners in this cause, that he has read and is acquainted with the contents of the foregoing petition and that the facts therein set forth are true.

(Sgd.) DOMINGO DIAZ A.

Subscribed and sworn to before me this 14th day of April, 1921.

(Sgd.) E. M. GOOLSBY,
(Seal) Clerk, U. S. District Court.

Filed in open Court this 14th day of April, 1921.
(Sgd.) E. M. Goolsby, Clerk of the Court.

Also comes the defendant and files his answer to the foregoing amended petition, which is in the following words and figures:

ANSWER TO AMENDED COMPLAINT.

United States of America, Canal Zone.

In the District Court of the U. S. for the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs. Civil No. 199.
Guillermo Patterson, Defendant.

Comes now the above-named defendant, by Todd & MacIntyre, his attorneys, and answering the amended

petition of plaintiffs, herein heretofore filed, he says as follows:

9

I.

Defendant admits the allegations contained in the First Paragraph of said Amended Petition.

II.

Defendant denies in toto, each and every one of the allegations contained in the Second Paragraph of said Amended Petition.

III.

Defendant denies in toto, each and every one of the allegations, averments and descriptions contained in the Third Paragraph of said Amended Complaint; and especially and particularly denies the authenticity and correctness of the translation of the alleged copy of a Spanish Crown grant, purporting to be set forth in Plaintiffs' Exhibit "A", filed in Court with Plaintiffs' original petition, and referred to in said Third Paragraph of Plaintiffs' Amended Petition.

IV.

Defendant denies in toto, each and every one of the allegations, averments and descriptions contained in the Fourth Paragraph of Plaintiffs' Amended Petition; and especially and particularly denies that Pedro Miro was ever the owner of the estate of Mata Redonda, or of any part thereof; and Defendant further denies that Pedro Miro ever conveyed to Jose Garcia de Paredes any of the lands or property mentioned in said Fourth Para-

graph of said Amended Petition; and Defendant further denies that Jose Garcia de Paredes was ever seized or possessed of any of said lands; and Defendant further denies that Jose Garcia de Paredes was ever the legal or registered owner or any of the said lands. And Defendant further and particularly denies the authenticity and correctness of the translation of the purported instrument of sale attached to Plaintiff's original Petition as Exhibit "B", and referred to in said Fourth Paragraph of Plaintiffs' Amended Petition; and Defendant further answering the averments of the Fourth Paragraph of said Amended Petition, says that the said purported instrument of sale, referred to by Plaintiffs and Exhibit "B", was never recorded or registered as required by law by the said Jose Garcia de Parades during his lifetime, and was not sufficient in law to pass any property to the said Jose Garcia de Paredes, and that the said Jose Garcia de Parades never was the lawful owner and never was in possession of any of the lands mentioned in said Exhibit "B".

V.

Defendant denies in toto, each and every allegation contained in the Fifth Paragraph of said Amended Petition; and specifically and particularly denies that the Paredes family was ever in possession and ownership of the lands described in the Fourth Paragraph of said Amended Petition and referred to in said Fifth Paragraph thereof; and Defendant, further answering said Fifth Paragraph, says that the alleged sale referred to in Plaintiffs' Exhibit "C", was a fictitious and fraudulent sale effected by Mrs. Catalina Lewis de Garcia de Paredes for the purpose of attempting to assert ownership to lands which were not her property, and of which

she was not in possession. And defendant further says that Mrs. Catalina Lewis de Garcia de Parades, the grantor and grantee at said alleged sale, was not the legal heir of Jose Garcia de Parades; that the said Jose Garcia de Paredes died intestate, and that no probate proceedings were ever instituted in his estate and his heirs were never legally determined.

VI.

Defendant denies in toto, each and every one of the allegations, averments, descriptions and references contained in the Sixth, Seventh, and Eighth Paragraphs of Plaintiffs' Amended Petition; and Defendant particularly denies the authenticity and correctness of the translations, of the Exhibits mentioned therein by Plaintiffs, as Exhibits "D", "E", "F" "G", "H", "I", "J", "K", "L", "M", "N", "O" and "P".

VII.

Defendant denies in toto, each and every one of the allegations and averments contained in the Ninth Paragraph of said Amended Petition.

VIII.

In answer to the Tenth Paragraph of said Amended Petition, Defendant says that he is the absolute owner in fee simple, and in possession of certain of the lands described in Plaintiffs' Amended Petition and wrongfully designated by Plaintiffs as part of "Lo de Caceres", as more fully, hereinafter appears; and that Plaintiffs, and those from whom Plaintiffs claim title,
11 are not, and never were in ownership or possession of any part of said lands.

And for further answer and separate defense to Plaintiffs' Amended Petition, Defendant says:

I.

That Defendant, and his predecessors in interest from and under whom he holds and claims, have been in actual, uninterrupted, continuous, hostile, open, and notorious possession, since the year 1695, and have held, under duly and regularly executed and registered deeds, all of the following described property, located within the Canal Zone, and partly included within the various descriptions alleged by Plaintiffs as part of the Estate of Lo de Caceres; to wit, the Estate of Mata Redonda, or that part thereof lying within the Canal Zone, bounded and described as follows:

"Beginning at a point known as Mata Redonda, duly marked as such, and situated at a point where the estates of Lo de Caceres, La Gloria and Mata Redonda meet, and thence in a northerly direction to the boundary line between the Republic of Panama and the Canal Zone at a point about midway between boundary monuments 86 and 87; thence in a general north-westerly direction, in a straight line, following the said Canal Zone-Republic of Panama boundary line to monument No. 80, situated on the right hand side of the River Cardenas, going down stream; thence south, following the meanderings of the said Cardenas River to the point where the Rio Palangana flows into the said Cardenas River; thence in a general easterly direction, following the meanderings of the Rio Palangana to the point at which the Rio Platanar flows into said Palangana, thence continuing, in an easterly direction, along the Rio Platanar to its headwaters, and thence in a straight

line to the point marked Mata Redonda, and known as such, the point of beginning, and containing a superficial area of 1101 hectares;;"

All of which is more fully and specifically shown by Defendant's Exhibit marked "A", attached to and made a part of Defendant's original answer, and as such filed in this Court, here referred to, adopted and made a part of this answer; and also by Defendant's Exhibits marked "B" to "O", inclusive, attached to and made a part of Defendant's original answer, and as such filed in this Court, here referred to and adopted and made a part of this, Defendant's Answer to Plaintiffs' Amended Petition.

And Defendant further says that by reason of such continuous, uninterrupted, open, hostile, actual and adverse possession, under recorded title, since the year 1695, independently of any other right, title or interest in or to said described lands, defendant has acquired a perfect title to all of said lands by prescription.

And for further answer, and special defense, Defendant says:

That if Plaintiffs, or those under and from whom they claim, ever did have any right to the ownership or possession of any part of the lands owned and possessed by Defendant and his predecessors in interest, by reason of the alleged sale made by Pedro Miro to Jose Garcia de Parades, made in 1832, and referred to in Plaintiffs' Petition, in the Fourth Paragraph thereof, and in Plaintiffs' Exhibit "B", that Plaintiffs failed to assert, exercise or maintain said right for a period of more than seventy-five years thereafter; and any right of action,

if any indeed there ever was, which Plaintiffs or their ancestors might have had for the possession or ownership of the lands owned and possessed by Defendant and his predecessors in interest, has entirely lapsed and become lost by prescription under the laws of The Republic of Panama and of the Canal Zone.

And for further answer, and special defense, Defendant says:

That all of the matters here in dispute; and all claims to any part of the lands described and mentioned herein as being owned and possessed by Defendant and his predecessors in interest, were fully litigated and adjudicated by Courts of competent jurisdiction of the Kindom of Spain and the Republic of New Granada in the years 1790 and 1841, between the predecessors in interest of Plaintiffs and Defendant, and said adjudications were final and binding upon all the parties thereto in the jurisdictions where the same were rendered, and that said judgments were unappealed from, unreversed, and not superceded, and are in full force and effect and binding upon Plaintiffs and Defendant; and that by reason of said adjudications, all of the matters set forth and claimed by Plaintiffs have been adjudicated against Plaintiffs and their ancestors, and in favor of Defendant, and his predecessors in interest, and the entire claim and demand now made by Plaintiffs in this action is res judicata.

Defendant further shows unto the Court that he is unable to here set forth copies of said proceedings for the reason that the same have become lost, or
13 have been abstracted from the archives; but Defendant says that part of the proceedings had before a Court of the Kingdom of Spain in 1790, above

referred to, are in the possession of the Plaintiffs and part thereof has already been introduced in this cause, by Plaintiffs as evidence, in Plaintiffs' Exhibit "A", attached to Plaintiffs' original Petition, and referred to and adopted as part thereof in the Third Paragraph of Plaintiffs' said Amended Petition; and Defendant believes that the entire record of both of said adjudications, are in the possession of the Plaintiffs.

And further answering Plaintiffs' Amended Petition, Defendant says:

That the defendant, as the owner and possessor in good faith and under registered title, of the lands herein described, through himself and his predecessors in interest, has acquired and placed upon said property, and particularly upon the portion thereof illegally claimed by Plaintiffs, certain valuable improvements consisting of houses, pastures, fences and fruit trees, and has expended monies in the clearing, upkeep, and taxes upon said property, of a value considerably in excess of twenty thousand dollars U. S. Cy., and that the Plaintiffs and their predecessors in interest have had full knowledge of the fact that defendant was the owner and possessor in good faith of such improvements, and that no attempt has ever been made by said plaintiffs or their predecessors in interest to disturb the defendant in his lawful right to the use and enjoyment thereof.

Wherefore, Defendant prays that he be confirmed by decree of this Court in his ownership of the said lands and improvements; that the Plaintiffs recover nothing by this action; that the Defendant may be allowed to go hence without day with his proper costs in this behalf expended, incurred and incrued, and for all such other,

further and different relief as to the Court may seem just, right and equitable.

(Sgd.) TODD &MacINTYRE,
Attorneys for Defendant.

14 United States of America,
Canal Zone, ss.
Ancon.

Guillermo Patterson, of lawful age, being first duly sworn, on oath states that he is the Defendant in the above entitled action. That he has read the foregoing Answer to Plaintiffs' Amended Petition, and knows the contents thereof, and that the same is true; save as to the matters therein stated to alleged upon information and belief, and as to those things and matters he verily believes it to be true.

(Sgd.) G. PATTERSON.

Subscribed and sworn to before me at Ancon, C. Z. this 14th day of April, 1921.

(Sgd.) E. M. GOOLSBY,
Clerk of the Court.

Filed in open Court April 14, 1921. (Sgd.) E. M. Goolsby, Clerk of the Court.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this eighteenth day of April, 1921, the parties to this action are in open Court by their attorneys respec-

tively, and the plaintiffs file a Reply to the answer of the defendant herein which is in the following words and figures:

15 REPLY TO ANSWER OF DEFENDANT.

United States of America, Canal Zone.

In the United States District Court, in and for the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs Number 199 Civil.
Guillermo Patterson, Defendant.

Come now the above named plaintiffs by their attorneys, C. P. Fairman, and replying to the answer to the Amended Petition of plaintiffs, filed on behalf of the defendant, Guillermo Patterson, allege and state as follows:

1.

Plaintiffs specifically deny the affirmative allegations set forth and contained in the fourth, fifth, and eighth paragraphs, wherein said defendant is answering specifically the allegations of the Amended Petition herein; and requires strict proof of each and every of such affirmative allegations contained in said enumerated paragraphs.

2.

The plaintiffs specifically deny each and every and all statements and allegations set forth in the answer

of the said defendant under the paragraph numbered 1, and entitled "and for further answer and separate defense to plaintiffs' amended petition," together with the allegations contained after the heading: "and for further answer and special defense," and again wherein said answer appears the heading: "And for further answer and special defense"; and again, to that portion of the said answer after the heading: "and further answering plaintiffs' amended petition," and the said plaintiffs demand strict proof of each and every, all and singular, of the said allegations and statements wherein defendant alleges interests adverse to those of the plaintiffs' and wherein answer of said defendant is seeking for affirmative relief in that behalf.

3.

Further replying to this answer of the defendant filed herein, and by way of a plea res judicata, plaintiffs allege that under date of November 6, 1917, the
16 said defendant instituted his certain action in a Court of competent jurisdiction of the Republic of Panama, wherein he sought to establish his rights and interest in the property, a portion of which is now involved in this action, as described in the second paragraph of the Amended Petition of Plaintiffs. That the said suit so instituted, after following the usual course prescribed by law, was eventually passed upon by the Supreme Court of Panama, under date of May 18, 1920, wherein said decree the said defendant in this cause, Guillermo Patterson, was condemned to take nothing by his suit with respect to the conflict between the boundaries of the estates of Lo de Caceres and Mata Redonda, as will more fully appear from the translated copy of proceedings hereto annexed, marked Exhibit No.

1, and made an intregal part hereof; that the said decree is final, conclusive, and binding upon all the parties.

Wherefore, plaintiffs pray that the said answer of the defendant, Guillermo Patterson, and so much thereof wherein he seeks to assert adverse interest and prays for affirmative relief, be dismissed and for naught held; and that the Court will grant the prayer of plaintiffs as set forth in the Amended Petition filed herein.

(Sgd.) C. P. FAIRMAN,
Attorney for Petitioners.

United States of America,
Canal Zone, ss.
Balboa Division.

Domingo Diaz A., of lawful age, being first duly sworn, deposes and says that he is one of the petitioners in this cause, that he has read and is acquainted with the contents of the foregoing petition and that the facts herein set forth are true.

(Sgd.) DOMINGO DIAZ A.

Subscribed and sworn to before me this 18th day of April, 1921.

(Sgd.) E. M. GOOLSBY,
(Seal) Clerk, U. S. District Court.

17 EXHIBIT NO. 1.

Supreme Court of Justice,
Panama, May 15, 1920.

Whereas: The suit between Guillermo Patterson and the Diaz Arosemena family relative to the boundary

of the properties "Pena Hueca" or "Mata Redonda" and "Lo de Caceres", each one belonging to each of the parties, has come up to this Court on appeal. In the lower Court the suit was prosecuted under the procedure prescribed by law, and Judge One of this Circuit pronounced judgment therein, which is hereinafter transcribed, and which is the subject matter of the appeal. It reads as follows:

"Court One of the Circuit; Panama, January 23, 1919.

Whereas, by memorial of the sixth of November, one thousand nine hundred and seventeen, which in copy form has been inserted in the record, Guillermo Patterson brought suit against Elisia Arosemena, widow of Diaz, Domingo Diaz Arosemena, and Isabel Diaz de Jimenez, praying that they be compelled within the legal period to begin an action on the rights stated by them to appertain to them in the lands called "Mata Redonda", closed, according to the Jactancia suit, within the following boundaries: From (sic) the Mata Redonda or Pena Hueca, a line more or less straight, along the road leading to Lucha Franco up to the stream Terorera, known by the name of "Los Tres Pasos"; thence following said stream or creek up stream to its source; thence in a straight line to the side above the large rock, and follows along the entire ridge of the hill until meeting the source of the principal branch of the River Cardenas, from which point it turns to the other source of said river, known by the name of Quebrada Larga; and following along this branch said river, down stream, to the place where a stream with flat rock on its bed empties into it, and which stream passed through an old grove of papaya trees, known by the name of the Plantanar; and follow-

ing this creek, up stream, to its headwaters, and thence in a straight line to the Mata Redonda (or Pena Hueca), the starting point. The boundary between the Mata Redonda and Lo de Caceres is formed by the road of Lucha Franco from the Mata Redonda or Pena Hueca to meeting the stream La Tesorera. Due to said action of Suit Domingo Diaz Arosemena, Elisia Arosemena de Diaz, and Isabel Diaz de Jimenez, have brought a possessory action against Guillermo Patterson in
18 order that by final judgment, and a hearing on the part of defendant Patterson, the following declaration be made: "That the piece of land comprised within a visual straight line which, starting from the summit of the hill Mocambo extends in a northwesterly-southeasterly direction up to meeting the boundary line between the Canal Zone and the Republic of Panama, always seeking the Mata Redonda or Pena Hueca, which is alongside the ruins of the Chapel of Mata Redonda; following the line to the Canal Zone to the road of Lucha Franco, this road to the stream of La Tesorera, and from this point in a straight line to the starting point, or, in other words, the summit of the hill Mocambo,—forms part of our property called Lo de Caceres. The line from Mocambo to the Canal Zone is the western boundary of the said piece of land; the Canal Zone line is the southwestern boundary; the Lucha Franco road is the eastern boundary; and the line from La Tesorera to Mocamba is the northern boundary of said piece of land. We request of you that you find that over said piece of land we have the right of possession, legitimately acquired, to the absolute exclusion of the pretended rights of Mr. Patterson; that said Patterson must refrain from disturbing us in our dominion and possession of said property; and that the registry of property Number 241, folio 130,

volume 9 of the Panama Section, is null, and that it be ordered canceled." "This action being admitted by the Court, and the different steps taken therein in accordance with the rules of procedure, the time has arrived to render judgment, and for that purpose the claims of the parties in relation to the titles filed by both sides are taken into consideration in order to determine the real situation in which they have placed the rights and facts involved. "Diaz maintains that the boundaries of the lands "Lo de Caceres" with relation to the lands of "Mata Redonda" is a straight line which, starting from the Mata Redonda, ends at the Mocambo hill; and that the lands included within the boundaries mentioned in the petitionary part of the possessory action belong to the property of Lo de Caceres, and not to Mata Redonda whose real boundaries are not those given in this Jactancia suit, nor those given in the public deeds of 1891, where they have been altered to the prejudice of the lands of Lo de Caceres; but before proceding further with the discussions of the principal claims
19 of the parties it is proper to consider and decide the demurrer to the complaint beforehand; which has been introduced by the defendant Patterson. Patterson maintains that the action brought by Diaz Arosemena does not lie because it has been brought in an improper manner; that is to say, that it is not a possessory action which has been brought; but if an examination of the points of the complaint be made, the petition which in itself contains the right alleged, the conclusion is reached that the action does lie, and that it has been brought in a proper manner inasmuch as it has for its object that a finding be made that the actors have the ownership of a piece of land which has been included in the lands of Mata Redonda. Necessarily they have invoked as a right to bring the action Title

7 of Book 2 of the Colombian Civil Code, which treats on revindicatory actions, which is the action which the owner of a singular thing has of which he is not in possession in order that another be compelled to restore it. "The demurrer, or exception having been examined and considered as aforesaid, the Court not proceeds to pass on the main issue. "In the year one thousand seven hundred and thirty-six the lands comprised within the following boundaries were exempted by Sergeant-Major Juan Francisco de Ceceres: from the headwaters of the river Hondo, on this bank, to a stream situated in the neighborhood of Pan de Azucar, and from said stream, drawing a stright line to Matasnillo, and following the said straight line to the point where it meets the headwaters of a small stream which empties in the old city, and from the headwaters of said stream, following a straight line on up to the hills of Sonsonate and Gallinazos, and thence to Mocambo, where the straight line goes down to the headwaters of the river Hondo, lying within the stream called de Castaneda. The parents of Juan Francisco de Caceres were in possession of said lands, who exempted same according to the new exemption made in 1736 by the Crown of Spain. They maintained these boundaries in all posterior acts relative to transmission of ownership of the Caceres lands up to the year 1832 when Don Pedro Miro acquired said property. "The boundaries of the lands of Mata Redonda have been given in the original public deeds; or, in other words, the deeds of exemption and following ones read; From the Mata Redonda to the outlet of the river Cardenas, there being comprised herein the headwaters and watersheds of said river, the river Cardenas, down stream,
20 to the watersheds adjoining the Palangana, and thence, going down a creek having a bed

with flat rocks which crosses the Palangana, and from the hill of the Gallinazo to the limits of Mocambo. These are the boundaries which Noriega gives in the public deed by which he transfers the ownership of Mata Redonda to Jose del Carmen Rivera in the year one thousand eight hundred and fifty-four. From the year one thousand eight hundred and thirty-two the boundaries between the lands Lo de Caceres and Mata Redonda consisted of a straight line which, starting from the Mata Redonda or Pena Hueca, ended at the Mocambo hill, according to Pedro Miro as set forth in the transfer deed of contribution from Lo de Caceres to Mata Redonda, and according to the deed executed in favor of Jose Garcia de Paredes, so that on Mrs. Josefa Miro selling to Mr. Noreiga the lands of Mata Redonda it was done by the boundaries mentioned in the last mentioned deed, since she could not dispose of those lands by the original boundaries inasmuch as said boundaries had been altered by her lawful husband, Pedro Miro, upon selling Lo de Caceres to Jose de Paredes, sale which perfected itself by the lapse of time, since dealing with a relative nullity and not an absolute one, and there being no posterior opposition on the part of the wife, said person's consent was understood for the transfer. Notwithstanding this, Mr. Noriega, posterior owner of the Mata Redonda transferred his rights or ownership to Jose del Carmen Rivera, giving as boundaries of said lands, from the Mata Redonda to the outlet of the river Cardenas, there being comprised therein the headwaters and watersheds of said river, along the bed of said river, down stream, to the watersheds adjoining the Palengana, and thence going down a stream with a bed of flat rocks which crosses the Palangana, and on the upper side from the hill called the Gallinazo to the limits of Mo-

cambo. Later on these boundaries were altered by Rivera on selling to Corsino Arauz; by Arauz on selling to Sayas Batista; by Saintbois, by Jose Gabriel Dupue, and by ManuelEspinosa B. on transferring his right of ownership to Guillermo Patterson, as all these gentlemen gave as boundaries of Mata Redonda the following: "From the Pena Heuca of this name Mata Redonda, a straight line to the hill of the Algarrobo, and without interruption to the hill of Vidrio, and thence on the hill Gordo. "The transmission of ownership under those established conditions placed the purchasers within the conditions established by articles 752 and 753 of the Colombian Civil Code, according to which, if the one making the tradition is not the real owner of the thing delivered by him or on his behalf, other rights are not acquired by means of the tradition than those transmitted from the very person making the tradition over the thing delivered. "The later purchasers of the Mata Redonda acquired by the tradition the rights which the parties making the tradition might have over the thing conveyed, and which were no others than that of prescription; but one of said purchasers, to wit, Sayas Batista, convinced that his vendor had transmitted to him more than he had a right to transmit him, had occasion to resort to the Courts to claim his lawful rights, since with the Mata Redonda there had been transmitted to him rights of ownership to a portion of land which belonged to Lo de Caceres, portion which is no other than that which is now the subject of litigation, or, in other words, the portion comprised in part within the boundaries given by Mr. Patterson in the Jactancia suit (accion de jactancia) boundaries which, it may be incidentally remarked, do not agree in their greater part with those set forth in the deed covering transmission of owner-

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ship. "Said rights of prescription were or became good by registry of the title in the Registry then existing, up to the year one thousand eight hundred and ninety-five, at which time the heirs of Ramon Garcia de Paredes sold at public auction the lands of Lo de Caceres under the boundaries given in the deed covering purchase sale executed by Pedro Miro in favor of Jose Garcia de Paredes, as the entry in the Registry of the title acquired at public auction interrupted the prescription of the titles of Mata Redonda in order to give said prescription in favor of the heirs of Ramon Garcia de Paredes, in accordance with the provisions of articles 2525 of the Colombian Civil Code, which reads as follows: "The acquisitive prescription of real property or of real rights constituted therein does not obtain against a recorded title, except by virtue of another recorded title, nor shall it begin to run but from the date of the record of the second." "The title of Mata Redonda, which transmitted the ownership to Mr. Patterson, was recorded in the year one thousand eight hundred and ninety-one; and the title of Mr. Diaz in the year one thousand eight hundred and ninety-five; both having reference to the same portion of lands, or, in other words, the lands comprised between the Mata Redonda and Mocabo in a straight line, and from Mata Redonda to the hill of the Algarrobo, and from this hill to Mocambo; the recording of the last title in the Registry interrupts the prescription of the first to transmit it to the second, and as in this instance there has been no posterior interruption whatever inasmuch as it was again recorded in the Public Registry created by Act 13 of 1913, it is unquestionable that in his favor there exist all the rights which the prescription gives as an acquisitive means of ownership; if said prescription is added to the rights accrued by virtue of

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the title of purchase sale of Jose Garcia de Paredes, the legal conclusion is reached that the heirs of Gen. Domingo Diaz hold the true ownership of the lands in dispute inasmuch as the posterior re-registration of the title of Guillermo Patterson lacks legal value in the presence of article 15 of Act 13 of 1913, according to which, registration of a title of ownership to a piece of property being made, no other title in conflict therewith may be recorded; and if said registration should be made a marginal note shall be entered calling attention to the error for the cancellation of said last registration. "According to expert opinion rendered by Macario Solis, Juan Patterson, Florencio Harmodio Arosemena and Manuel A. Alguero, the lands in dispute are comprised within the general boundaries of the lands Lo de Caceres and also within the boundaries of the lands of Mata Redonda; the lands of this last mentioned estate, according to the Jactancia suit (demanda de jactancia) do not agree in their greater part with the boundaries given in the original titles of the Mata Redonda, nor with the boundaries given in the deeds of one thousand eight hundred and ninety-one which transmitted the ownership to Mr. Patterson, as while in the former it is stated that said boundaries are along the lower part from the Mata Redonda to the outlet of the River Cardenas, comprising the headwaters and watersheds, from the river Cardenas, down stream, to the watersheds adjoining the Palangana, and thence, going down a stream with a bed of flat rocks, which crosses the Palangana, and on the upper side from the hill called the Gallinazo to the limits of Mocambo; in the titles of 1891, it is stated that said boundaries are from the Pena Hueca of this name (sic) Mata Redonda a straight line to the hill of the Algarrobo, without interruption to the hill of Vidrio, and thence to the hill Gordo, turn-

ing around the headwaters of the river Cardenas, down stream, to the junction, (or where it empties), with the stream La Palangana, and from this junction, up stream, to the stream Platanar (Platano); thence, this junction, up stream, to its source, and thence a straight line to the Pena Hueca; and in the jactancia
23 suit the said boundaries are given in such a contradictory manner that they embrace more lands than those which, in reality, should correspond according to the original titles and those of 1891. The boundaries given in said suit read: From the Mata Redonda (round bush) or Pena Mueca (hollow rock) a line more or less straight along the road leading to Lucha Franco to reaching the creek or stream La Tesorera known by the name of 'Los Tres Pasos', thence following said stream, up stream, to the source thereof, thence a straight line to the upper side of the Penon (large rock), and continuing along the entire ridge of the hill to meeting with the source of the principal branch of the river Cardenas, where it turns to the other source of said river known by the name of stream Larga, and continuing along this branch said river, down stream, to the place where there empties into it a stream having a bed with flat rocks, which crossed through an old papaya grove, known by the name of La Platanar; following this stream, up stream, to its seurce, and from there a straight line to the Mata Redonda (or Pena Hueca), the starting point. The boundary between Mata Redonda and Lo de Caceres is formed by the road of Lucha Franco from the Mata Redonda — round bush — (or Pena Hueca —hollow rock), to meeting the stream La Tesorera. "Defendant Patterson has objected to the mena and Alguero, and bases said challenge on the grounds that Mr. Arosemena is an employe of Diaz

Arosemena, and Alguero has been charged with being the author of the crime of falsehood. In order to disqualify said proof said challenge must be considered in direct reasoning with the provisions of article 853 of the Judicial Code, according to which experts may be challenged in the same manner as witnesses and for the same causes as the latter; and according to the provisions of article 786, 788, and 789 of the Judicial Code incompetency of witnesses is of three classes, to wit, through lack of probity, by reason of natural incapacity, and through lack of impartiality. In order that the witness may be incompetent by reason of natural incapacity it is indispensable that said witness be crazy or demented, or blind or deaf, or that by any other cause said witness be of unsound mind at the time of giving testimony, or that said person be a minor under fourteen years of age. Experts Arosemena and Alguero do not come under any of these cases. Through lack of probity the falsifier is not competent. There has been introduced in the record a copy of the
24 Court order whereby criminal action is brought against expert Alguero for falsehood in official documents; but the order to proceed against is not the express declaration that the expert is a falsifier inasmuch as said order is not the legal finding required in final sentences, or in other words, in the judgments on a finding of guilty, which is the case where the penalty demanded by the circumstances of the case is meted out to the defendant. It is necessary, therefore, in order that the charge of falsifier be true and effective, and, consequently, that the condition of incompetency through lack of capacity be imposed, that a penalty shall have been imposed upon the person prosecuted. Hence, the charge of falsifier brought against expert Alguero does not comply with the conditions for

imposing incapacity account lack of honesty. With regard to expert Arosemena, his incapacity for absence of impartiality has not been proved. Mr. Arosemena does not come under any of the conditions imposed by article 789 of the Judicial Code because the grounds therefore alleged, that of being an employe of one of the actors, does not appear as proven in the suit, by reason of the fact that witnesses Muller make reference to the company La Esperanza, composed of Domingo Diaz Arosemena and Carlos W. Muller, and expert Arosemena manages said business, that does not imply the character which, as an employe of Domingo Diaz Arosemena, is given to him because the latter is distinct from the commercial firm the same as is distinct the property of each of the partners composing the firm; but even admitting the challenge of the experts, and considering it as proven, that neither takes from the suit the proof that the lands, the subject of the suit, are enclosed, in the lands of Lo de Caceres, and have been taken by the defendant, because the experts appointed by the defendant, accept in toto the conclusions of experts Alguero and Arosemena, agreeing with what they set forth. "The ownership of Diaz Arosemena to the land in discussion is unquestionable. The titles introduced in the trial so show, and make clear his right to invoke prescription as an acquisitive means of said ownership, since in good faith and in accordance with the old titles of 'Lo de Caceres' and 'Mata Redonda', Gen. Domingo Diaz acquired the former property, from whom he held the ownership thereof. The recording of said titles gave to him the registered possession, strengthened by the material possession held by the old owners of the property sold, and to this possession there is added the possession of the Diaz Arosemena family following the death of Gen. Do-

25 mingo Diaz, its assign. Wherefore, the Court administering justice on behalf of the Republic and by authority of the law, finds that the piece of land comprising within a visual straight line, which, starting from the summit of the hill Mocambo, extends in a northwesterly-southeasterly direction up to meeting the boundary line between the Canal Zone and the republic of Panama, always seeking the Mata Redonda (round bush), or Pena Hueca (hollow rock), which is alongside the ruins of the chapel of Mata Redonda; following the line of the Canal Zone to the road of Lucha Franco, this road to the stream Le Tesorera, and from this point a straight line to the starting point, or, in other words, the summit of Mocambo,—forms an integral part of the property of 'Lo de Caceres', belonging to Domingo Diaz Arosemena, Elisia Arosemena de Diaz, and Isabel Diaz de Jimenez. The line from Mocambo to the Canal Zone is the western boundary of the said piece of land; the Canal Zone line is the Southwestern boundary; the Lucha Franco road is the eastern boundary; and the line from La Tesorera to Mocambo is the northern boundary of said piece of land, and orders the defendant, Guillermo Patterson to refrain from disturbing the actors in the ownership and possession of said piece of land, and orders the Registrar to cancel the registration of property No. 241, on folio 130, volume 9, of the Panama Section, insofar as same is in conflict with this judgment. "The Court costs are a charge against the defendant, and the attorney's fees are taxed in the sum of two hundred and fifty balboas. The Court costs shall be taxed by the Clerk of the Court. "Let copy be made and notice issue. E. Fernandez Jaen—F. Gardia H., Clerk.

The judgment transcribed is a study responding with fidelity to the facts demonstrated in the low Court and

strengthened in the second period of the lawsuit. It appears of record that actually from the time of Pedro Miro the properties called "Lo de Caceres" and "Mata Redonda' were bound by a line starting from the Mata Redonda (round bush) and ending at the hill Mocambo. It has been argued in this Court that the Mata Redonda, not belonging to Miro, but to Miro's wife, and said change of boundaries under which Miro sold Lo de Caceres to Jose Garcia de Paredes produced a lawsuit between Josefa Miro, daughter of the vendor, and the vendee, Garcia de Paredes, to the end that the latter restore to the former the portion of land which the indicated change of boundaries took away from Mata Redonda to the benefit of Lo de Caceres, and
26 that this suit terminated with a judgment, of which the judgment figuring on folios 298 bis to 300 of the principal record of this suit is said to be a copy. It is further stated that since the said judgment decides the same point now under discussion, the judgment forms the basis of the plea of res judicata. But aside from the fact that the copy of the presumptive judgment lacks a proper authentication making it unobjectionable, the judgment in itself does not destroy the legal fact that, dating from one thousand eight hundred and ninety-five, at which time the property was called Lo de Caceres was sold at public auction, this property was recorded in the Public Registry under the boundaries given by Miro some years previous without said title being contradicted by a later registration dating from the said registration, outside of the re-registration of the title of Patterson in the new Property Registry. And the said presumptive judgment signifies nothing for the legal effect of the registration in the Registry of the public sale proceedings of one thousand eight hundred and ninety-five, because

judgments with respect to real property only cause to be determined the owner of same, the same as any other legitimate title, whence, only these judgments are recorded, if a title conflicting therewith is recorded later, and the time being run for the acquisition by prescription of the property whose owner was indicted by the judgment, the prescription produces its effects. So, then, in the year one thousand eight hundred and ninety-five, some years after the acquisition by Patterson of the Mata Redonda, and the recording of the title of Patterson in the Old Property Registry, there was recorded in favor of Carolina Lewis de Garcia de Paredes the proceedings by which said lady sold at public auction the property of Lo de Caceres under boundaries which start from La Mata Redonda (the round bush), in a straight line to the limits of Mocambo. This registration was in conflict with the registration theretofore made of the title of Patterson of one thousand eight hundred and ninety-one, registration which, although conflicting and without the last title proceeding from the proprietor, according to the former title, was at that time permitted by law. Wherefore, dating from one thousand eight hundred and ninety-five, Catalina Lewis de Garcia de Paredes and those holding under her (derivatarios) commenced to prescribe ordinarily against Patterson the portion of land englobed in favor of the property Lo de Caceres by the boundary which in one thou-
27 sand eight hundred and thirty-two Pedro Miro had drawn, and by which the public sale was made in one thousand eight hundred and ninety-five. And this being so the plaintiffs Diaz Arosemena have today to their advantage, and not Patterson, the plea of ordinary prescription alleged by both parties; because it is evident that no one prescribed against one who has followed said person in the registration of a title exe-

cuted under legal formalities, but that, on the contrary, it is the owner of the last title recorded who can acquire by ordinary prescription that which was therefore recorded in favor of a third party from whom he does not derive the ownership title. (Art. 2525 of the old Civil Code). This happens because prescription is one of the means of acquiring things which have not a known owner, and also the means of extinguishing the ownership and obligations belonging to another, to such an extent that the true owner loses by prescription his rights, acquiring the thing the person who in good faith acquires a title in due form and records it, and so, if in one thousand eight hundred and thirty-two Pedro Miro separated from Mata Redonda, belonging to his wife, the piece of land now in dispute, in order to include it in the property of Lo de Caceres, belonging to him, with the registration of the title of that date in favor of Ramon Garcia de Paredes, the latter began to prescribe as against the wife of Miro the ownership of the piece of land segregated, unless it be true that there did take place the alleged lawsuit between Garcia de Paredes and Mrs. Josefa Miro, widow of Gomez, and that said lawsuit had been brought in time to interrupt the prescription period; if in one thousand eight hundred and ninety-two Patterson acquired and recorded his title by boundaries which took from the property of Lo de Caceres a part of that which Garcia de Paredes had acquired from Miro, Patterson would have prescribed against Garcia de Paredes if his title had continued without contradiction during the legal period for the purpose of acquiring by ordinary prescription; and, lastly, there having been recorded in one thousand eight hundred and ninety-five the public sale proceedings in favor of Carolina Lewis de Garcia de Paredes, which contradicts the title of Patterson, and

restores the boundaries of both properties, the same agreeing with the boundaries given by Miro in one thousand eight hundred and thirty-two. With this new registration there was initiated in favor of said lady and against Patterson the acquisitive prescrip-
28 tion of the globe of land which, according to the exempted Crown lands, formed part of Pena Hueca and not of Lo de Caceres. And since, dating from one thousand eight hundred and ninety-five up to the establishment in one thousand nine hundred and thirteen of the new Public Registry, no title has been recorded contradicting the title now figuring by successive traditions of ownership in favor of plaintiffs Diaz Arosemena, it is plain that acquisitive prescription is in favor of these plaintiffs. The legal status of these titles this remained until the establishment of the new Public Registry in one thousand nine hundred and thirteen, when the plaintiffs recorded theirs, and later the title of the defendant. But this new phase of the question does not conduce to conclusions contrary to the former conclusion because neither, as stated by the Judge of the Lower Court, the latter re-registration by the defendant of his title of ownership obtains for him any other right than that which he theretofore could have inasmuch as Art. 15 of the law on the subject opposes that, and which was in force at the time, nor, although such circumstance did not enter into the question, the time which the re-registered title of Patterson would require for ordinary prescription has not begun to run. Defendant Patterson urges the pleas of res judicata, prescription of the action, and acquisitive prescription of ownership. With regard to the first plea, that is, the plea of res judicata, it is necessary to agree that there do not exist the necessary elements for it to be tenable, since the ex-

istence thereof has not even been proven, as the irregular manner in which this plea has been attempted to be proven, introducing in the argument a document extemporaneously and without any authentication whatever, and consequently without any legal force, makes the plea inadmissible from every point of view, and, therefore, it is overruled. With regard to prescription of the action, which has been invoked, it likewise does not lie in his favor, because the right to prescribe in this case is in favor of the plaintiffs, who, considering the continuous possession given them by the titles of ownership recorded in their favor, are the owners as long as the contrary be not judicially declared. And so, therefore, ordinary perscription does not exist, and with much less reason can there exist extraordinary prescription, subsidiarily invoked. The other plea, acquisitive prescription of ownership; the former plea not existing, it is impossible for this latter plea to exist.

29 The defendant has endeavored to show the continued occupation of the piece of land in dispute for a lapse of time sufficient to produce such prescription, and for that purpose some testimonial proofs have been introduced, but it is necessary to bear in mind that said proofs have been countered by others of the same nature introduced by the opposite side, which shows that the material occupation on the part of Patterson has been intermittent, at intervals in isolated portions and for an indeterminate time. This by no means can give him the right to prescribe. In view of the considerations herein, the Supreme Court, administering justice on behalf of the Republic and by authority of the law, finds that the exceptions opposed have not been proved, and it is ordered that the recorded title of the defendant be rectified in all particulars where it is in conflict with the judgment of the Lower

Court, which judgment, with the amendments stated, is affirmed. The costs, which are a charge against Patterson, are taxed in this Court in sixty-two balboas and fifty hundredths, (B/62.50), in accordance with the fee tariff agreed upon by the lawyers of the Capital. Let notice issue, copy be made, publication had, and remittitur made. (Sgd.) E. Urrutia Diaz. — (sgd.) M. A. Juan Lombardi. — Samuel Quintero C. — Hermogenes Casis, Acting Clerk.

I hereby certify: That in order to notify the interested parties of the judgment inserted an edict has been posted in a public place of the Clerk's Office this the eighteenth day of May, one thousand nine hundred and twenty at two o'clock in the afternoon.

(Sgd..) CASIS, Acting Clerk.

Edict: In the ordinary suit brought by Domingo Diaz A. in his name, and in that of Elisia A. de Diaz, and Isabel Diaz de Jimenez, against Guillermo Patterson, Sr., the following judgment has been entered:

"Whereas: .....
"in view of the considerations herein, the Supreme Court, administering justice on behalf of the Republic and by authority of the law, finds that the exceptions opposed have not been proved, and it is ordered that the recorded title of the defendant be rectified in all particulars where same may be in conflict with the judgment of the lower Court, which judgment, with the amendment stated, is affirmed. The costs, which are a charge against Patterson, are taxed in this Court in the sum of sixty-
30 two balboas and fifty hundredths (B/62.50), in accordance with the fee tariff agreed upon by the lawyers of the Capital.

"Let notice issue, copy taken, publication had, and remittitur be made. — E. Urrutia Diaz. — M. A. Grimaldo B. — Manuel A. Herrera L. — Juan Lombardi. — Samuel Quintero C. — Hermogenes Casis, Acting Clerk."

"In order to notify the interested parties of the judgment inserted this edict is posted in a public place of the Clerk's office this the eighteenth day of May, one thousand nine hundred and twenty, at two o'clock in the afternoon.

(Sgd.) HERMOGENES CASIS,
Acting Clerk.

The time for the posting thereof having expired, I remove it and attach it to the record at three o'clock in the afternoon of this the nineteenth day of May, one thousand nine hundred and twenty.

(Sgd.) CASIS, Acting Clerk.

Panama, October 2, 1920.
A copy.

(Sgd.) (Signature illegible) (Stamp)

Treasury of the Public Registry,
Panama, October 18, 1920.
Registry fee receiver, B/0.25
The Treasurer,

(Sgd.) M. MIRONES.

Office of the Public Registry.

The foregoing document was recorded in the Property Registry, Panama Section, the twenty-third day of June, 1920, Volume nine, Folio 590, Property 241, Entry 4. Fees B/ twenty-five hundredths. Panama, Oct. 18, 1920.

(Sgd.) E. MARQUES,
Chief of Section."

(Stamp)

Filed in open Court this 18th day of April, 1921.
(Sgd.) E. M. GOOLSBY,
Clerk of the Court.

And the defendant files a motion to strike in the following words and figures:

31 MOTION TO STRIKE.

United States of America, Canal Zone.

In the United States District Court, in and for the Canal Zone, Balboa Division.

Eliza Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs. Civil, No. 199.
Guillermo Patterson, Defendant.

Comes now the above named defendant by Todd & MacIntyre, his attorneys, and respectfully shows unto this Honorable Court as follows:

1. That on date of January 15, 1921, attorney for plaintiffs was ordered to file his amended complaint by the second week in February, 1921.

2. That on February 15, 1921, the defendant herein was ready to close issues and go to trial, and moves that trial be had in the March Term.

3. On March 15, 1921, defendant still being ready and announcing ready for trial, case was set for trial the second Monday of April Term, 1921.

4. On April 1, 1921, time was again extended to plaintiff until April 9, 1921, in which to file his amended complaint; plaintiff promising the same and be ready for trial by April 12, 1921; and the Court ordered trial to be had on April 12, 1921.

5. On April 11, 1921, this cause was again continued on account of illness of plaintiff's counsel.

6. On April 14, 1921, plaintiff filed his amended complaint which he had been ordered to file in February, and on the same day defendant filed his answer and announced ready for trial, and this cause was set for trial for April 18, 1921.

7. All of the above facts appear from the docket and minutes of this Court in this cause.

8. Now, at 9:00 o'clock a. m., April 18, 1921, parties being in Court and defendant being ready for trial, plaintiffs file a reply to defendant's answer, in the 3rd paragraph of which he attempts to set up a plea of res judicata, and to introduce a certain judicial record of proceedings had in the Republic of Panama, and there terminated on date of May 18, 1920; all of which matters and records have been within the full knowledge
32 and possession of plaintiffs for a year past.

9. That plaintiffs are here attempting, after issues closed, and without the consent of the Court being first obtained, and without notice to defendant, to interject a new cause of action into plaintiffs' case, and it is patent that such action of plaintiffs is merely for the purpose of obtaining delay and causing annoyance to defendant herein.

Wherefore, in view of all the foregoing and of the fact that the issues herein are now closed, and have been closed according to the provisions of our Code since the filing of defendant's Answer, April 14, 1921; and in view of the further fact that defendant is now ready for trial, and has been ready and waiting for trial, since February 15th of this year, defendant respectfully moves this Honorable Court that that portion of Plaintiffs' Reply contained in paragraph 3 thereof, together with the Exhibit thereunto attached, be stricken, and that this trial at once proceed upon the issues joined by Amended Petition and Answer, and paragraphs 1 and 2 of the Reply.

(Sgd.) WM. C. MacINTYRE,
for TODD and MacINTYRE,
Attorneys for Defendant.

Filed in open Court this 18th day of April, 1921.
(Sgd.) E. M. GOOLSBY,
Clerk of the Court.

And said motion having been heard is sustained by the Court, to which ruling the plaintiffs except.

The issues being now joined herein it is stipulated and agreed between the parties, plaintiffs and defendant herein, that the Court stenographer shall report the trial of this case, and that all of his time while so engaged in taking evidence shall be charged as costs in this action: that either party wishing a transcript of the reporter's notes shall pay for the same himself.

33 The trial having proceeded until the hour for adjournment, by agreement of all parties here-

to that an ocular inspection of the premises be made by the Court, said ocular inspection is set for the forenoon of the 19th day of April, 1921, and the Court is adjourned till 9:00 o'clock in the forenoon of April 19, 1921.

Elisa Arsemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this nineteenth day of April, 1921, pursuant to an agreement of the parties to the above entitled case, made and entered yesterday, the Judge, counsel and the parties hereto viewed the land in controversy, went over the different lines as claimed by the different parties, and most of the day being thus consumed for such ocular inspection, the taking of further evidence in this case was continued until tomorrow morning at 9:00 o'clock.

Elisa Arsemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this twentieth day of April, 1921, the trial of this case is resumed, the parties hereto being in open Court by their attorneys respectively, the hour for adjournment having arrived, the Court is adjourned until 9:00 o'clock tomorrow morning.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this twenty-third day of April, A. D. 1921, the the parties to this action are in open Court by their attorneys respectively, and evidence having been heard, the hour of adjournment having arrived, the
34 Court is adjourned.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this twenty-second day of April, A. D., 1921, again come the parties to this suit by their attorneys respectively, the trial is resumed, and hour for adjournment having arrived, case is continued until tomorrow morning at 9:00 o'clock.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this twenty-second day of April, A. D. 1921, again come the parties to this suit by their attorneys respectively, the trial is resumed, and hour for adjournment having arrived, case is continued until tomorrow morning at 9:00 o'clock.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this twenty-third day of April A. D. 1921, the parties are in open Court, by their attorneys respectively, and both sides having closed their evidence, case is continued for argument.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this third day of May, A. D. 1921, comes O. E. Malsbury, and files his bill for services rendered in locating and placing on blue prints of map No. 42-6 additional data required by the Court, in the sum of One Hundred Dollars ($100.00). The same bill is approved by the Court, it is ordered that same be filed and the amount $100.00 be taxed as costs herein.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this thirteenth day of May, A. D. 1921, the defendant by his attorney presents to the Court in open Court a decree in favor of the defendant herein and moves that the Court sign the same as a decree of the Court herein.

35

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this fourteenth day of May, A. D. 1921, this case being called the defendant is in open Court in person and by attorney, and on motion of said attorney for setting a day for argument herein, it is ordered by the Court that this cause be set for argument at Cristobal, within the Cristobal Division, at 2:00 o'clock in the afternoon of May 16, 1921.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. No. 199.

Guillermo Patterson, Defendant.

On this sixteenth day of May, A. D. 1921, the Court sitting at Cristobal, in the Canal Zone, the following proceedings are had, to-wit:

This day come the parties to this action in person and by attorneys, respectively, and this case being called, by agreement of the parties hereto in the Cristobal Division of this Court, and arguments of counsel having been heard, and the Court being fully advised in the premises. The case is taken under advisement. The attorney for the plaintiff files in open Court its finding of fact on behalf of the plaintiff.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this twenty-seventh day of May, A. D. 1921, this cause coming on, the parties are in open Court in person and by their attorneys respectively. The Court now finds its special findings of facts and conclusions of law, and the decree of the Court, which is in the following words and figures:

36 SPECIAL FINDINGS OF FACT AND CONCLUSIONS OF LAW.

United States of America.

United States District Court in and for the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. Civil No. 199.
Guillermo Patterson, Defendant.

As introductory to and explanatory of the following special findings of fact and conclusions of law, I deem it advisable to briefly review the history of this case.

This is the second trial of this case. This action was commenced in November, 1917, in this Court, before my predecessor, Judge William H. Jackson, and such proceedings were had thereon that on the 24th day of October, 1918, Judge Jackson handed down a decision in favor of the plaintiffs herein.

Thereafter, the defendant appealed to the Circuit Court of Appeals of the Fifth Circuit; and a decision was rendered by the Circuit Court of Appeals on February 9, 1920, and reported in Vol. 262, pages 899 to 904, of the Federal Reporter. It was held by the Court of Appeals that the opinion rendered by Judge Jackson showed that the decree in favor of the plaintiffs resulted from the conclusion by the Trial Court that under Article 2526 of the laws of the Canal Zone, which is in words and figures as follows, to-wit:

"The acquisitive prescription of real property or of real rights constituted therein does not obtain against a recorded title, except by virtue of another recorded title, nor shall it begin to run but from the date of the record of the second."

recording in 1895 of the conveyance under which the plaintiffs' predecessor in title claimed had the effect of preventing the acquisition by the defendant of the ownership of such land by the continuance there-
37 after of the possession commenced by a predecessor of the defendant, to which the latter succeeded when the deed to him was made and recorded in 1891, and from which he was not ousted, notwithstanding the fact that neither such claimant nor anyone claiming through him got possession of the land in dispute. The Court of Appeals then quoted part of the findings of the Trial Court, and then stated that "the Court's opinion plainly indicates that the case was disposed of on the theory that, assuming, without determining from the evidence adduced, that the defendant and those through whom he claimed had continuous and uninterrupted possession under claim of ownership for the length of time required to confer title by pre-

scription, that possession was ineffective in his behalf from the date of the recording of a deed describing the land, made by an adverse claimant to a third person, though neither the grantee in such deed nor anyone through whom he claimed or who claimed under him acquired possession of any of the land described therein, and though the conveyance under which the defendant claimed was first recorded."

The Court of Appeals held that 'the language used in Article 2526, supra, does not include a purpose to give to the recording of a conveyance by and to parties who are strangers to the possession of the thing conveyed or purported to be conveyed the effect of preventing the acquisition of ownership by prescription by one remaining in possession under a previously recorded title. It does not purport to give to the mere recording of a deed to such an adverse claimant the effect of interrupting or rendering ineffective the actual possession of a stranger to such deed who holds under a previously recorded title. It does not make the effectiveness of an actually uninterrupted adverse possession dependent upon a re-recording of the title of the possessor which had already been recorded when an adverse claimant had recorded the instrument or instruments under which the latter claims. It does no more than require one record of the title under which the possessor claims to make his possession effective against a recorded title in favor of another. The provision cannot be given the effect of requiring a possessor to have a title recorded to enable him to acquire ownership by extraordinary prescription. To do so would be in the teeth of the following provision of the above set out Article 2526: "For the extraordinary prescription no title whatsoever is necessary." ' The Court further holds as follows: 'In view of the just quoted explicit

provision, it is to be inferred that the provision of Article 2526 was intended to have reference
38 only to the acquisition of ownership by ordinary prescription, and not to such acquisition by extraordinary prescription, by means of which a possessor having no title whatsoever may acquire ownership of the thing possessed for the required time. Furthermore, the deeds under which the defendant possessed and claimed land in dispute having already been recorded when the instrument under which the plaintiffs claim was recorded, to give to the recording of the last mentioned instrument, in the absence of a claimant thereunder acquiring possession, the effect of terminating the defendant's previously registered possession is inconsistent with the provision of Article 789." Article 789 reads as follows:

"In order that registered possession may cease, it is necessary that the record be canceled, either by the will of the parties or by a new record in which the registered possessor transfers his right to another, or by judicial decree."

"As long as the record subsists, he who obtains the thing which is the subject-matter of the record, does not acquire the possession thereof, nor does he put an end to the existing possession."

The Appellate Court further holds: "Possession being essential to the acquisition of ownership by prescription, (Art. 2512, supra), there is no basis in law for the conclusion that the mere lapse of time from the date of the record of a deed by and to parties out of possession can have the effect of conferring ownership by prescription on the grantee in such deed."

The Court further holds that this Trial Court disposed of this case on 'a theory inconsistent with the law

applicable to the facts disclosed by the pleadings and the evidence adduced.' And 'there was such evidence tending to prove that the defendant and those to whose rights he succeeded were, for more than thirty years immediately preceding the bringing of the suit, continuously and uninterrupted in possession under claim of ownership of land which the decree appealed from adjudged to the plaintiffs.' The Court said: "If that evidence was such as to require a finding in accordance with it a result would be that the defendant was entitled by prescription to disputed land so possessed." And by reason "of a misconception of what is the law applicable to the case" by the Trial Court, the case was reversed and remanded for further proceedings not inconsistent with the Appellate Court's opinion.

Aftr this case was reversed by the Appellate Court, different counsel was employed by both plaintiffs and defendant. The plaintiffs secured the permission of the Court to file an amended complaint and elected to bring their action directly under the provisions of Chapter 10 of the Code of Civil Procedure of the
39 Canal Zone: "To establish Titles to Real Property." In this amended complaint the plaintiffs allege that they were "seized and possessed of an undivided estate of inheritance in fee simple" to all the lands in dispute between plaintiffs and defendant. And in support of that allegation plaintiffs plead a record title starting with a grant from the Crown of Spain in 1736 down to the present time.

To this amended complaint the defendant filed an answer of eight paragraphs, and also a cross-complaint of four paragraphs asking for affirmative relief. In the answer the defendant denied each and every one of the allegations of the amended complaint, and claim

ownership in fee simple in himself in the lands in dispute. In the cross-complaint the defendant plead that "the defendant and his predecessors in interest * * * have been in actual, uninterrupted, continuous, hostile, open, and notorious possession since the year 1695, and have held under duly and regularly executed and registered deeds" all of the lands in dispute between the plaintiffs and defendant. The defendant further plead the statute of limitations against the plaintiffs; and for a further and special defense the defendant plead res judicata; and finally, the defendant plead title by prescription to all of the lands in dispute.

Plaintiffs' reply was filed by way of general denial to all the new matters alleged by the defendant.

Under the law for the Canal Zone, Section 542, of the Code of Civil Procedure, it is provided that 'in a new trial ordered by the Supreme Court, all evidence taken upon the former trial which is competent and admissible shall be used upon the new trial without retaking; but additional evidence may be presented upon the second trial by either party.' In accordance with that provision, the parties hereto agreed that all evidence which had been taken at the former trial and which appeared in the transcript of record which was used in the Circuit Court of Appeals would be included in the evidence in this trial, except such parts as were incompetent and objected to.

Five days were given to the hearing of evidence in this case, and one day was taken in an ocular inspection of the lands in controversy by the Judge,—the parties and counsel all being present during said inspection;—and there was pointed out to the Judge all the disputed points as to the boundary lines and starting points.

Prior to the introduction of any evidence, the Court announced that he would find the facts specially and the conclusions of law thereon, and requested counsel representing both parties to make memoranda of essential evidence necessary to the finding of the ultimate facts, and then to submit to the Court what each party claimed to be the facts proven. After the evidence was all closed, the Court gave to the counsel on both sides ample time to prepare and submit what each claimed to be the facts proven, and each party submitted to the Court what they claimed to be the facts proven; then the Court gave time and heard argument of counsel for both parties as to the evidence applicable to the findings of fact submitted by each party, so that each party had the fullest opportunity to present to the Court their understanding and view of the evidence adduced and the facts as they contended were proven.

The Court in its findings of fact which follow herein, has found a number of facts at the request of the parties which the Court does not deem to be essential to the ultimate facts on which its conclusion are found; but it has been a long and expensive litigation to the parties, and counsel for both parties are desirous that every fact clearly proven be found in order that the Court of Appeals may have before it each and every fact which the Trial Court finds has been proven. This Court is also desirous that the Court of Appeals should have every aid and assistance that this Court should render in order that this case may be finally determined by the Court of Appeals, either for the plaintiffs or defendant.

The Court now submits the following findings of fact and conclusions of law:

Findings of Fact.

1. That the dispute between the parties, plaintiffs and defendant, involves the title to and legal ownership of a piece or parcel of land situated within the Canal Zone, consisting of a superficial area of five hundred and thirty-six hectares, more or less, which may be described as follows:

From the spot called Mata Redonda, or Pena Hueca, as indicated by Major Omar E. Malsbury, U. S. A., upon the map or blue print made by him for the Land Department of The Panama Canal: (which map was originally introduced in evidence in this cause at the first trial thereof, as Defendant's Exhibit X; and is again before the Court, being introduced by plaintiffs as Plaintiffs' Exhibit 2); in a line North 7 degrees East, to a place where said line meets the Canal Zone—Republic of Panama boundary line between monuments 86 and 87, about one hundred meters northwest of boundary mounment 87; thence North 48 degrees, 20 minutes, West, to Canal Zone boundary monument 81; thence in a south-easterly direction to a spot near the "Old Chapel Ruins," shown on the same Exhibit, where there exists a large flat stone pitted with a number of holes, approximately ten to twelve inches deep; from there in a generally easterly direction to the spot marked "Headwaters of the Rio Platanar" on said map or exhibit; and from thence in a straight line in an easterly direction to the spot of starting, called the Mata Redonda, or Pena Hueca, as above indicated.

41 2. That pursuant to proceedings instituted before the Joint Commission, appointed and acting under the terms of the treaty between the United

States and the Republic of Panama, the said Joint Commission did, under date of January 24, 1919, make its award for the value of the property in dispute between plaintiffs and defendant, above described, in the sum of $26,160.00; and it ordered said sum of $26,160.00, United States currency, paid into the registry of this Court, to abide the decision of this Court as to the ownership thereof.

3. That on the 28th of February, in the year 1695, the Kingdom of Spain issued a Crown grant to one Mrs. Tomasa Ramon for the Estate called "Mata Redonda," in which said grant the boundaries of the Estate were described as follows:

"On the lower part, from the Mata Redonda up to the limits of the River Cardenas including its headwaters and springs * * * bottom, down stream to the junction of the Palangana stream and thence seeking a creek with a rocky bed which crosses the papaya field; and on the upper part, from the hill called Gallinazos to the furthest boundaries of Macambo."

And that in the year 1742, said Estate, through a series of conveyances fully set forth in defendant's Exhibit "G", became the property, and was in the possession of one Mrs. Jacunta de Pimentel.

4. That in the month of July, in the year 1736, the Kingdom of Spain issued a Crown grant to Sergeant-Major Juan Francisco, conveying and granting to him, the said Juan Francisco de Caceres, a piece or parcel of land described in the said grant as follows:

"The lands of the estate of live stock in the locality known as La Calera, otherwise known as San Jose de

Higuerones y Mataredonda, which is under the jurisdiction of this city, as also of those other two portions of land adjoining which formerly were one undivided estate, and all together lie on this side of the Rio Hondo, starting at its source, to a brook situated in the neighborhood of Pan de Azugar, and from said brook the boundary described a straight line to the Matasnillo, and following said straight line until opposite the source of another brook which empties itself in the vicinity of the Old City, and from the source of the said small brook it follows a straight line up to Sonsonate Hill and that of Gallinazos, and from there to Mocambo—(at this point in the Exhibit introduced as Plaintiffs' Exhibit "A,", the description becomes unintelligible, the original Spanish reading: 'que baja la misma linea hasta las cabaceres de rio hondo,' which may be translated either 'thence the same line descends,' or 'going back along the same line', to the headwaters of the Rio Hondo)—remaining inside or rather including the brook called Castaneda, together with all the brush land, pastures, pools and streams, which within the boundaries referred to may be found."

5. That on the 21st day of August, 1755, the titles to said land were confirmed and declared legitimate in all its parts by the Governor-Auditor of War and Special Judge of the Kingdom of Spain, who confirmed the said grant above referred to, to Juan Francisco de Caceres.

42 6. That thereafter, to-wit, on the 12th day of May, 1790, one Clara del Carmen Gongora de Caceres had become the owner of the lands granted to Juan Francisco de Caceresh by said Crown grant of 1736, and she instituted a suit in ejectment against one

Mrs. Juana Baravena, a tenant of Luis de la Barrera y Negreiros, who was at that time in possession and ownership of the lands of Mata Redonda, as granted to Mrs. Tomasa Ramos in the year 1695, according to the descriptions and boundaries as set forth in the third finding of fact, supra, and as a result of said suit a judgment was entered by the Court, which reads in part as follows:

"It is derived from this analysis that the Crown grant title of Mata Redonda introduced as evidence, may be made to harmonize with the Lo de Caceres Crown grant, introduced also as evidence, as far as the one states that its boundary line on the upper side is drawn from a hill called Gallinazos to the furthest boundary of Mocambo, and the other grant states that its boundary go from the hill of Sonsonate and that of Gallinazos to Mocambo. It all means that the limits of the Caceres land reach from Sonsonate Hill to the further boundary of Mocambo and thence they return passing in front of Sonsonate Hill to the large Gallinazo Hill. It has also been proven that Captain Luis de la Barrera y Negreiros has rented to Mrs. Juana Baravena by means of a written contract, since eleven years ago, the establishments of Algarobo, Sonsonate and Gallinazos as long as she has been all this time in possession of them as his tenant. It is pertinent to determine, therefore, that Captain Luis de la Barrera y Negreiros is and has been in legal possession of the lands from the furthest boundaries of Mocambo to the Gallinazos Hill and thence to the spot called Mata Redonda, which lands include the establishments of Algorrobo, Sonsonate, and Gallinazos."

7. That thereafter, to-wit, on the 12th day of October, 1829, Pedro Jimenez, executor of Luis de la Barrera

y Negreiros, sold the lands of Mata Redonda to his sister, Mrs. Maria Eusebia Jimenez de Miro, the wife of one Pedro Miro.

8. That thereafter, to-wit, on the 18th day of September, 1832, the said Mrs. Maria Eusebia Jiminez de Miro, executed a mortgage and placed an irrevocable servitude upon the Estate of Mata Redonda in favor of her son-in-law, Gregorio Gomez, Jr., which instrument was duly recorded and registered.

9. That thereafter, to-wit, on the 12th day of October, 1832, Pedro Miro, husband of Mrs. Maria Eusebia Jimenez de Miro, executed a deed of conveyance of the Estate of Lo de Caceres to one Jose Garicia de Paredes, in which deed the boundaries of the Estate of Lo de Caceres were described as follows:

"From the spot called Mata Redonda to Macambo in a straight line, and from the spot called Mata Redonda on the side of Pan de Azugar the boundary shall be in accordance with the ancient title,"

thus including in the lands of Lo de Caceres a considerable portion of the Estate of Mata Redonda, as delimited by the decision of the Spanish Court as set forth in the sixth finding of fact, supra.

43 10. That, thereafter, to-wit, in the year 1841, Maria Josefa Miro de Gomez, widow of Gregorio Gomez, Jr., and daughter of Mrs. Maria Eusebia Jiminez de Miro, who had inherited the Estate of Mata Redonda from her mother, and had inherited the mortgage and irrevocable servitude upon said Estate from her husband, brought suit before the Judge of Real Es-

tate of Panama, of the Republic of Columbia, against Jose Garcia de Paredes, for the return to her of all that portion of the lands of Mata Redonda which had been wrongfully included in the sale of Lo de Caceres from Pedro Miro to Jose Garcia de Paredes. And as a result of said suit, judgment was rendered against Jose Garcia de Paredes, and in favor of the plaintiff, Maria Josefa Miro de Gomez, for the return of said lands; said judgment reading in part as follows:

"As Mrs. Gomez' right is clear, and as these points in the executed judgment introduced which were in issue have been determined, and administering justice in the name of the state and by authority of law, Mr. Jose Garcia de Paredes is hereby ordered to return to Mrs. Maria Josefa Miro, widow of Gomez, within six days, the lands of Sonsonate, Algarrobo, and Gallinazos, included within the boundary line that comes out of the headwater of the Menteca or Mocambo River, next to the Istleno Angeles and Penon Hill, and goes thence to the Gallinazos hill, which is to the southeast of the Sonsonate Hill, and thence to the spot called Mata Redonda, and it is likewise ordered and decreed that this judgment be registered after it has been executed. * * *

"Know all men by these presents: This judgment is already executed by provision of the law and because no appeal has been taken from it.

(Sgd.) MANUEL ARCE.

"This ruling has been handed down and signed by Dr. Manuel Arce, illustrious judge of real estate. Panama, June 14, 1841.

(Sgd.) JOSE de los SANTOS CORREOSO."

11. That during the pendency of her action, Mrs. Josefa Miro sold the Estate of Mata Redonda on date of April 26, 1841, to Jose Isidero Noriega.

12. That thereafter, to-wit, on date of June 22, 1855, the heirs of Jose Isidero Noriega by a judicial proceeding before Mr. Jose Garcia de Paredes, who was at that time the Judge of the Second Circuit of Panama, Republic of New Grenada, conveyed the Estate of Mata Redonda to Jose del Carmen Rivera, and in said proceedings the boundaries of Mata Redonda were again asserted to be as set forth in the original Crown grant of 1695, to Mrs. Tomasa Ramos,—to-wit:

"On the lower side, from the spot called Mata Redonda to the limits of the Rio Cardenas including its headwaters and springs; on the bottom, the same river down stream to the junction of the Palangana creek and to this point coming down a stream with a rocky bed which meets the Palangana stream, and on the upper side from the hill called Gallinazos to the furthest boundaries of Mocambo."

13. That Jose del Carmen Divera sold the Estate of Mata Redonda on March 26, 1859, to Maria de las Nieves Collet de Martelo.

44 14. That Maria de las Nieves Collet de Martelo sold the Estate of Mata Redonda March 17, 1862, to Nasario Quintero.

15. That Nasario Quintero sold the Estate of Mata Redonda February 11, 1871, to Pedro Corsina Arauz.

16. That Pedro Corsino Arauz sold the Estate of Mata Redonda on August 25, 1876, to Jose Zayas Matista.

17. That by virtue of a judgment against Jose Zayas Batista, the Judge of the Department of Panama, United States of Colombia, on November 21, 1883, sold at a judicial sale, by public auction, the Estate of Mata Redonda to Juan Saintbois.

18. That Juan Saintbois on November 19, 1884, resold the Estate of Mata Redonda to Jose Zayas Batista.

19. That Jose Zayas Batista sold one-half of the Estate of Mata Redonda on March 31, 1887, to Jose Gabriel Duque.

20. That Jose Zayas Batista sold the remaining one-half of the Mata Redonda Estate to Jose Gabriel Duque on July 9, 1888.

21. That Jose Gabriel Duque sold one-half of the Mata Redonda Estate to Manuel Espinosa B., on July 8, 1890.

22. That Jose Gabriel Duque and Manuel Espinosa, B., by public instrument of February 3, 1891, each sold his respective one-half interest in the Estate of Mata Redonda to Guillermo Patterson, the defendant in this cause.

23. That all of the conveyances of the Estate of Mata Redonda referred to in the 7th, 8th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st and 22nd finding of fact supra were by duly recorded and registered titles.

24. The Court finds as a matter of fact that defendant has established recorded title to all of the lands

in controversy from the present time by an unbroken chain of title to the original grant from the Spanish Crown made to Mrs. Tomasa Ramos, defendant's predecessor in interest, in the year 1695.

25. The Court also finds that defendant has been in open, uninterrupted, notorious and actual possession by himself and his predecessors in interest, of all of the lands in dispute above described in the first finding of fact, since the year 1790; and that plaintiffs have never been in possession of any of the said property.

45 26. The Court finds as a matter of fact that for more than thirty years past the defendant and his predecessors in interest have established and maintained fences along the Porto Bello trail (the disputed boundary line), and that said boundary lines and fences of defendant and his predecessors in interest were undisputed by plaintiffs or their predecessors in interest, and have been accepted and acted upon as boundaries of the Mata Redonda Estate by adjacent land owners for more than thirty years.

27. The Court finds that the sale of Pedro Miro to Jose Garcia de Paredes of the lands of Lo de Caceres, including the lands in dispute, of October 12, 1832, and which sale, as to the lands in dispute, was set aside by judgment of June 14, 1841, was never recorded until the year 1894, when said instrument of sale was recorded by the heirs of Ramon Garcia de Paredes.

28. That by virtue of a petition of one Mrs. Catalina Lewis de Paredes as heir of one Ramon G. de Paredes, the Estate of Lo de Caceres was sold at auction

by the first Circuit Judge of Panama, Republic of Colombia; and at said sale said Estate was purchased by the said Mrs. Catalina Lewis de Paredes; she receiving as vendor the same money which she deposited with the Judge as vendee. That said sale was opposed by the defendant, Guillermo Patterson, for the reason that in the advertised notice of sale a part of the land of Mata Redonda was included, but the Judge who made the sale refused to allow the defendant to intervene or oppose the same upon the grounds that a Revolution was in progress, and by executive decree the Courts were closed for all civil litigation.

That on account of this simulated sale by Mrs. Catalina Lewis de Paredes to herself, a title was recorded to Lo de Caceres Estate, including the lands now in dispute, to Mrs. Catalina Lewis de Paredes; but the said Catalina Lewis de Paredes did not enter into possession of the lands in dispute and exercised no acts of possession over them, but all of this time the defendant, Guillermo Patterson, was in actual, open, hostile, notorious and adverse possession of all of the lands in dispute, and through his predecessors in interest had been in such possession uninterruptedly since the year 1790.

29. That thereafter the said Catalina Lewis de Paredes, by public deeds, conveyed to her children eight-ninths of the Estate of Lo de Caceres, and thereafter she and her said children conveyed the entire Estate of Lo de Caceres, including the lands in dispute, to General Domingo Diaz, the predecessor in interest of the plaintiffs herein.

46 30. That none of the grantees of Catalina Lewis de Paredes, nor General Domingo Diaz,

nor any of the present plaintiffs were ever in possession of any of the lands in dispute, but at the time when all of them obtained their various titles, the defendant, Guillermo Patterson, was in actual, adverse, notorious, and open possession of such lands, under duly recorded title, and had been in such possession under duly recorded title by his predecessors in interest, uninterruptedly since the year 1790.

31. That there exists a controversy between plaintiffs and defendant as to the location of various points mentioned in the respective deeds, and it being necessary for a proper decision in this case that the Court should decide from all of the testimony the proper location, the Court finds as follows:

(a) That the spot called Mata Redonda, or Pena Hueca, is the spot so indicated by Engineer Malsbury upon the map in evidence as Plaintiffs' Exhibit 2, where exists a broken boulder with a hollow underneath, upon which boulder are inscribed the words: "Pena Hueca o Mata Redonda"; and the rock near the ruins of the Old Chapel claimed by plaintiffs to be the true Mata Redonda or Pena Hueca is not the spot or location mentioned in the various deeds and instruments of title introduced in evidence as the spot called "the Mata Redonda."

(b) That the stream described in the Crown grant of Mata Redonda of 1695 and in the judicial sale of 1854 of the heirs of Noreiga to Rivera, as "the stream with a rocky bed," is the Rio Platanar, as indicated and located by Engineer Malsbury upon the map in evidence as Plaintiffs' Exhibit 2; and the headwaters of the said Rio Platanar actually are located as indicated upon said map.

(c) That the headwaters of the Rio Hondo as mentioned in the various instruments of title, are located at a spot indicated by Engineer Malsbury on the map introduced as Plaintiffs' Exhibit 2, as "Paso Real Antiguo", where exists a stone monument actually seen by the Court in its ocular inspection of the property, and which stone monument is engraved on one side "Rio Hondo," and on the other side "San Jose."

(d) That the Porto Bello trail, also referred to in some of the testimony as the Lucha Franco trail, is the trail indicated by Engineer Malsbury on said Exhibit 2, as the Porto Bello trail, and may be more fully described on said Exhibit as starting from the Pena Hueca, or Mata Redonda, already indicated, and following the fence line of defendant, in a northerly direction to Canal Zone boundary monument 88, and from there in a northwesterly direction along the Canal Zone boundary to Canal Zone boundary monument 87.

32. As a final and ultimate fact the Court finds: that plaintiffs have established no title to, nor have plaintiffs ever been in possession of any of the lands in controversy in this action, but that the defendant and his predecessors in interest have established good, valid and recorded title to all of said property since the year 1695, and have been in actual, notorious, open, adverse and uninterrupted possession of all of the lands in controversy since the year 1790 until the present time.

33. The Court also finds as a matter of fact that for more than ten years from the date of the deed of 1895 whereby the heirs of Ramon G. de Paredes attempted to convey the lands in controversy, and recorded a title thereto adverse to that of defendant,

47 plaintiffs instituted no action and made no attempt to eject defendant from the lands then in possession of defendant, and claimed by plaintiffs under said deed; nor was any such action brought by plaintiffs until the year 1917.

Upon the foregoing facts the Court enters and makes the following

Conclusions of Law.

1. That defendant has a good and sufficient recorded title to all of the property claimed by him in his answer to the amended complaint; that is to say:

to that property starting from the Mata Redonda, or Pena Hueca, above described and located, to a point on the Canal Zone boundary line between monuments 86 and 87; thence in a northwesterly direction to a spot where the Canal Zone boundary line crosses the River Cardenas at monument 80; thence in a southerly direction following the course down stream on the River Cardenas to a place where the Palangana River empties into it; then following the course of the Rio Palangana up stream until its junction with the Platanar Creek or River; then following the course of the Patanar, up stream, to its headwaters already indicated and located; and from thence in a straight line to the Pena Hueca or Mata Redonda,—the point of starting.

2. That defendant has a good and perfect title by prescription to all of the following described lands; that is to say:

from the spot called Pena Hueca, or Mata Redonda, following the old Porto Bello trail, or fence line of the

defendant, as indicated on Plaintiffs' Exhibit 2, to Canal Zone boundary monument 88; and from thence following the said Canal Zone boundary to the Cardenas River at Canal Zone boundary monument 80; then following the Cardenas River down stream to its junction with the Palangana; thence following the Palangana River up stream to its junction with the Rio Platanar; from thence following the Rio Platanar to its headwaters; and from thence a straight line to the Pena Hueca, or Mata Redonda,—the point of starting.

3. That all of plaintiffs' claim in res judicata, having been fully decided in favor of defendant and against plaintiff by a Court of the Kingdom of Spain in the year 1790 in a suit between predecessors in interest of plaintiffs and defendants, which said judgment was confirmed by a Court of the Republic of Colombia of June 14, 1841, in a litigation between the predecessors in interest of plaintiff and defendant, involving the ownership, title and right to possession of all the lands now in dispute; said judgment having never been reversed, or modified, or appealed, and being in full force and effect binding upon the parties hereto, and binding upon this Court in an adjudication of this cause.

4. That by reason of failing to bring any action against defendant for a period of more than ten years from date of their deed of 1895, against defendant who was in possession of the lands in controversy under a recorded title, plaintiffs have lost by limitation any right to bring an action against defendant for
48 possession of any of the lands in controversy.

5. That defendant has a good right and title, and is entitled to immediate possession of all of the moneys

and funds in this Court, together with accrued interest thereon, by the United States of America, through an award of the Joint Commission to the owner or owners of the land in controversy.

Wherefore, it is ordered, adjudged and decreed, that the defendant, Guillermo Patterson, be confirmed in title and possession to all of the following lands, to-wit:

From a spot known as the Mata Redonda, or Pena Hueca, where there exists a broken boulder with a cavern underneath, bearing the inscription "Pena Hueca o Mata Redonda;" and from thence along the ancient fence line of defendant, or the Porto Bello trail, (sometimes called the Lucha Franca trail or road), to a spot on the Canal Zone-Panama boundary line where exists Canal Zone boundary monument 88; and from thence in a northwesterly direction following the Canal Zone boundary line to a spot where that line crosses the Cardenas River at Canal Zone boundary monument 80; thence in a southwesterly direction to the spot where the Palangana River flows into the Cardenas River; thence up stream along the Palangana River to the place where the Platanar Creek flows into the Palangana River; thence up stream along the Platanar river to its headwaters as located by Engineer Malsbury upon the map introduced in this cause as Plaintiffs' Exhibit No. 2; and from thence in an easterly direction in a straight line to the Pena Hueca, or Mata Redonda, —the point of starting;

And that defendant have judgment for the possession of all of the funds or moneys deposited in this Court by the United States of America through an award of

the Joint Commission for the owner of the lands in dispute in this cause, for the lands and improvements, together with all of the interest thereon accrued and which may hereafter accrue,—the original award for the land deposited in Court is Twenty-three thousand, one hundred and sixty Dollars ($23,160.00); and for the improvements, Three Thousand Dollars ($3,000.00); United States currency,—together with all costs of this action.

Given at Ancon, Canal Zone, this 27th day of May, A. D. 1921.

(Sgd.) JOHN W. HANAN,
United States District Judge.

Attest:

(Sgd.) E. M. GOOLSBY, Clerk.

Filed in open Court, this 27th day of May, 1921.

(Sgd.) E. M. GOOLSBY,
Clerk of the Court.

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49 The plaintiffs save their exception to the findings and decree of this Court insofar as they are adverse to the plaintiffs in this action, and ask until next Thursday (June 2, 1921) at nine o'clock in the forenoon to file their motion for rehearing or a new trial. And the same is allowed by the Court.

Elisa Arosemena de Diaz, Isabel Diaz de Jiminez, and Domingo Diaz, A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this second day of June, A. D. 1921, the parties to this action are in open Court in person and by their attorneys respectively. The plaintiff files his motion for a new trial. After argument of counsel, said motion is overruled, and the plaintiffs' exception to said ruling is entered. Said motion is in the following words and figures:

MOTION FOR NEW TRIAL.

United States of America.

Canal Zone.

In the United States District Court, District of the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jiminez, and Domingo Diaz, A., Plaintiffs,
vs. No. 199. Civil.
Guillermo Patterson, Defendant.

The plaintiffs in support of the motion hereinafter presented respectfully represent and show unto this honorable Court as follows:

First: That the Court absolutely ignored the evidence introduced on behalf of the plaintiffs with respect to the record title they have introduced in evidence herein and especially the fact that their title and rights in and to

the property involved in these proceedings accrued in the year 1832 and have persisted from that time on to the present date in accordance with the record they have introduced in evidence in the trial of this cause.

Second: That the Court has ignored in its second finding of fact the proposition that the award mentioned therein involves property and improvements other than those actually involved in the trial of this cause, in this, to-wit, that under the award of the Joint Commission there were involved and there is involved in this action as evidenced by the decree of the Joint Commission the following claims, which have not been presented or finally adjudicated by the decree of this Court in the present cause, to-wit, and reciting the wording of award No. 189, Docket No. 2565, made under date of January 24th, 1919, by the Joint Commission, acting and appointed pursuant to the treaty between the United States of America and the Republic of Panama wherein said award it is determined that of the property presently in dispute between the plaintiffs and defendant, the following parties are co-claimants and demandants.

1. Guillermo Patterson, the claimant above-named.

2. The Aleman family consisting of Josefina Vallarino de Aleman, Jose Maria Aleman and Adolfo Aleman V., heirs of Adolfo Aleman, who are claimants in claim docket No. 3257 covering the property known as "La Gloria."

3. The Arosemena family, consisting of Ernesto Arosemena, Carlos C. Arosemena, Florencia Arosemena, Dolores H. Arosemena, Hercilia D. Arosemena, Delia

Arosemena de Uribe, who are claimants in claim docket No. 2757, covering the property known as "San Jose."

4. Domingo Diaz A., in his own name and as attorney in fact for Mrs. Elicia A. vda. de Diaz, and Isabel Diaz de Jiminez, heirs of Domingo Diaz, claimant in claim docket No. 3260, covering the property known as "Lo de Caceres."

And in addition to the foregoing, Award No. 188, made under date of January 16, 1919.

And in this respect the finding of the Court in this cause is absolutely defective and awards to the party defendant the money and property of those who are not a party to this action, referring distinctly to the parties named in the above and foregoing awards of the Joint Commission.

Third: Plaintiffs object to the third finding of facts insofar as it is altered or amended to conflict with the original grant made by the Crown with respect to the estate of "Lo de Caceres" and maintain that there is nothing in the records or in the respective conveyances introduced, which serve to destroy or in any manner affect the original Crown Grant of 1736, of the estate of "lo de Caceres."

Fourth: The Plaintiffs have consistently objected to all evidence with respect to the succeeding conveyances with regard to the estate of "Mata Redonda" insofar as their boundaries conflicted with the original estate granted to "Lo de Caceres" and this objection applies to the Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Nineteenth, Twenti-

eth, Twenty-first, Twenty-second, Twenty-third, and Twenty-fourth finding of facts made by the
51 Court in the present cause.

5th. The Plaintiffs further state that there is no evidence actual or implied that could be construed as giving to the defendant in this action the uninterrupted, notorious and actual possession of the premises, and in this connection would call the Court's attention to the fact that the matters pertaining to this possession were the subject of contract between the present parties plaintiff and defendant as set forth and contained on pages 327, 328, 329 and 330 of the record previously introduced in the trial of this cause.

6th. That there is no evidence supporting the finding of the Court as its twenty-fifth finding that the defendant had been in open, uninterrupted, notorious and actual possession of the property since the year 1790, for the reason that the acts and admissions of the defendant himself shows, that his first trespass upon these lands occurred after the year 1891.

7th. That the Court erred in its twenty-sixth finding to the effect that the defendant and predecessors in interest had established and maintained fences along the Porto Bello Trail and that the said boundary line and fences of the defendant and his predecessors in interest were undisputed by the Plaintiffs or their predecessors in interest in this, to-wit, that so soon as the plaintiff obtained any rights to the property involved in this action the parties at interest including the defendant proceeded to enter into an agreement by the terms of which the boundaries of the lands in dispute should be determined by arbitration and all fence lines or other

demarkations of these boundaries be left to the determination of the arbitrators.

8th. With respect to the twenty-seventh finding of fact made by the Court plaintiffs claim that the period intervening from the year 1841 until the present date of this action does not constitute a case of Res Adjudicata as against the plaintiffs in this action for the reason that the said decision is now seventy years of age and was never recorded or heard of prior to the trial of this action and furthermore, that the evidence in support of this purported judgment is in itself insufficient to support any finding of the Court in that behalf, especially in view of the fact that the particular thing is fragmentary in form and has not been sufficiently substantiated to perfect any reasonable degree of truth as to its authenticity.

9th. As to the twenty-eighth finding of fact made by this Court, the Plaintiffs would respectfully remind the Court of the fact that on the date of May 10, 1894, and pursuant to the proceedings of the proper Court
52 of Panama, the grantees of the plaintiffs in this action were placed in the actual and physical possession of the property involved herein.

10th. The Court has failed to find and refused to recognize the findings submitted by the plaintiffs in this action that the estate of "Lo de Caceres" remained in the possession "Paredes family" without partition or administration from the year 1832 until the year 1894, and has failed and refused to recognize or to give to the proper Courts of Panama the recognizance which their judicial proceedings necessarily most involve.

And further with respect to this finding of the Court and especially with respect to its statements: "That on account of this simulated sale by Mrs. Catalina Lewis de Paredes to herself," it is respectfully contended that the sale in question took place in the year 1895 and that the previous actual possession given to the purchaser and her predecessors in interest did away with any idea of a simulated sale. As a further reason the plaintiffs state that the appeal of this sale by the defendant, Guillermo Patterson, was not persisted in even after the period of the inhibition mentioned by this Court in its findings of facts, and further it appears that the revolution in question did not continue beyond the year 1895 and there is and was no reason why the said defendant should not interpose his objections thereafter. The further recital in this finding that the said "Catalina Lewis de Paredes did not enter into possession of the lands in dispute and exercise no acts of possession over them, but all of this time the defendant, Guillermo Patterson, was in actual, open, hostile, notorious and adverse possession of all the lands in dispute, and through his predecessors in interest had been in such possession uninterruptedly since the year 1790" is absolutely unsupported from any or all of the evidence introduced in this cause. The Plaintiffs would respectfully state that if this possession had been of the character stated there would never have been any lawsuits or agreements for arbitration of the boundaries of the estate in question.

11th. The Plaintiffs agree with the twenty-ninth finding of facts made by the Court.

12th. The Plaintiffs in their motion for a rehearing or new trial herein would respectfully represent that

the findings of this Court under paragraph thirty or the opinion or findings rendered therein is in contradiction to the actual crux of this case as presented in the trial hereof and are furthermore not borne out by the physical propositions which were represented to this Court in its hearings or in its actual observation of the proyerty.

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13th. As to the thirty-first finding of this Court, the Plaintiffs claim that the findings or decision made therein is so absolutely contrary to the actual and physical conditions and characteristics of the particular places noted and so contrary to every decision heretofore rendered by the Courts of the Canal Zone and the Courts of the Republic of Panama as to warrant the conclusion that the Court is absolutely mistaken in the findings of fact as set forth in this paragraph in its opinion.

14th. The thirty-second finding of facts made by this Court is simply in its last analysis a reiteration of previous findings made and is not supported by any valid evidence, nor is it supported by any good faith upon the part of the parties defendant to this action. The finding that the defendants and their predecessors have been in the actual, notorious, open, adverse and uninterrupted possession of the land in controversy since the year 1790 cannot be by this Court or any other Court found to be a fact under the evidence submitted by either parties to this action.

15th. That the thirty-third finding of facts rendered by this Court is of a negative character and does not under the facts alleged and proved by the plaintiffs in this action merit any consideration whatsoever.

16th. As a further ground for this motion the plaintiffs would respectfully call the attention of this Court to the fact that on the previous trials with respect to boundaries relating between the lands of "Mata Redonda" and adjoining estates, the decision of the Courts of the Canal Zone and of the Courts of the Republic of Panama have been unanimous, and in every respect they are contrary to the findings of this Court in the thirty-first paragraph of its opinion.

17. The Plaintiffs would especially call the attention of this Court to the fact that it would take judicial cognizance of the opinion and decision rendered by its predecessor, viz: Judge Hezekiah Gudger, Chief Justice of the Supreme Court in the case of Narcicco Garay, representative of the Hurtado family, versus Domingo Diaz, Adolfo Aleman, Guillermo Patterson, Pedro Arias, Arosemena Family and Manuel Maria Icaza, wherein the particular spot or place called "Mata Redonda" and the lands presumably belonging to Guillermo Patterson were adjudicated as being to the west of the "Rio Hondo."

18. The Court will take further judicial cognizance of this decree to the effect that the Court after three ocular inspections decided that the particular land marks presently claimed by the defendant in this action were far beyond the boundaries of any of the lands involved in that action, with especial reference to the spot presently claimed and decided by this Court as being the true location of "Mata Redonda" and "Pena Hueca."

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19th. As a further cause for a new trial, the plaintiffs respectfully represent that this Court erred in striking from their reply to the answer of defendant

the plea of Res Adjudicata wherein there is set forth in full the opinion of the Supreme Court of Panama with respect to that portion of the lands and estate of "Lo de Caceres" and "Mata Redonda" lying without the Canal Zone.

20th. As a further reason for a new trial in this cause plaintiffs allege that since the trial thereof they have discovered and have in their possession documentary evidence of all conveyances between the years 1790 and the year 1824 and further that the evidence in question could not have been reasonably obtained prior to the trial of this action especially in view of the attitude of the Court in its acceptance of documentary evidence pertaining to the chain of title which had heretofore been introduced and accepted without exception. Furthermore and with especial reference to the findings of the Court with respect to the lawsuits wherein Jose Zayas Batista had against parties who claimed adverse to his possession and ownership with special reference to the boundaries of the estate of "Mata Redonda" as distinguished from the boundaries of the estate of "Lo de Caceres." The plaintiffs have discovered the evidence as set forth in the judicial decrees of a Court of competent jurisdiction that delimitations and boundaries claimed by the parties in interest have been adjudicated in accordance with the claims of the plaintiffs in this action, and further that the decree so rendered has never been appealed from, modified or altered, and the proceedings in this case were thereafter confirmed in the suit of Jose Zayas Batista against his Vendor Pedro Corcino Arrauz, wherein the said Jose Zayas Batista stated to the Court that he had lost his suit against the estate of Paredes and the lands were incorporated in the estate of "Lo de Caceres."

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21st. Plaintiffs would further allege on the grounds of newly discovered evidence that in an action instituted by Francisco Antonio Hurtado against Jose Zayas Batista, owner of "Mata Redonda" the boundaries of the estates of "Mata Redonda," "San Jose," and "Pan de Azucar" were established by the decree of the Court. That the decree rendered therein was never appealed therefrom, that the boundaries established thereby were never changed and that the spot or place main-
55 tained by the plaintiffs as being the true headwaters of the "Platanar" and the true headwaters of the "Rio Hondo" together with the ancient crossing of the "Rio Hondo" as claimed by plaintiffs in this case were established under this decree in the year 1882.

22nd. Plaintiffs further allege that in view of the complicated character of this case and the conflicting evidence introduced by the parties in regard to their respective interests and the further fact that the Court reporter in this case has not reduced the evidence in a transcript form, that the Court has not had opportunity to be fully advised nor has it the right to make the findings which are practically in accord with the findings of fact submitted by the defendants in this action. That in justice to the plaintiffs and to the cause presented, a new trial should be granted wherein the parties plaintiff and defendant should have full opportunity to present their respective contentions and the evidence in support thereof without conditional rulings on the part of the Court upon the objections of counsel. And it is further earnestly contended that in justice to the parties herein that the questions involved should be submitted in such form as to preclude any questions of doubt and to allow the Court to form its own opinion upon the testimony which to say the least is either biased,

prejudiced, or in the last analysis, of such character as to compel the Court to look upon it with suspicion.

23rd. As a further ground for a new trial it would appear from the opinion of this Court that every presumption has been resolved by the Court in favor of the defendant as against the positive testimony advanced by the plaintiffs, both documentary and oral, and for this reason if no other, we would again urge that the Court grant a new trial in this cause for the reasons stated and in order that if this case must go to an Appellate Court for review the issues be presented in a form less complicated and prejudicial to those which have been found and adjudicated by this Court.

24th. The plaintiffs further allege that the Court erred in the admission of the testimony and in the rejection of the testimony hereto annexed and made a part of this motion, over the objections and exceptions of the plaintiffs in this action for the reason and upon the grounds stated herein, or pursuant to the specific objections and exceptions saved to the rejection or introduction of evidence and the rulings of the Court on that behalf.

56 In view of all this the plaintiffs respectfully pray that a new trial be granted herein for the reasons and in view of the facts hereinbefore set forth.

(Sgd.) C. P. FAIRMAN,
Attorney for Plaintiffs.

1.

Judge Fairman:

Plaintiff then submits in evidence certified copy of the decree of the Supreme Court of Panama, which has been certified to by the Secretary of Foreign Relations of the Republic of Panama, and by John H. Smith,

Acting Executive Secretary of The Panama Canal, in charge of the seal of the Government of the Canal Zone, in support of the plea of res judicata.

Mr. MacIntyre:

We would have several objections to make to this,—both technical, and objections which go direct to the merits; technically, we object on the ground that it is submitted without a translated copy attached as required by the Code—

Judge Fairman:

The translation is attached.

Mr. MacIntyre:

The translation being furnished, that objection is withdrawn. We object to it on the ground that it purports to be a judgment of the Supreme Court of Panama, and does not bear the signature of the presiding judge or magistrate of that Court, nor the secretary, but pretends to have the signature of the Judge or secretary of some Circuit Court of Panama. We object to its further introduction in support of the plea of res judicata because that plea was ordered stricken on motion of the defendant being allowed by this Court. We further object to the decision of the Court of Panama because proper foundation has not been laid for the introduction of any such testimony.

The Court:

Objection to the introduction will be sustained, and exception.

2.

Judge Fairman:

On behalf of the plaintiff we submit in evidence as Exhibit No. 1, the certified copy of the inventory and

succession to the estate of General Domingo Diaz, as heretofore appears in the record in this case at page 222 of the transcript filed in the United States Circuit Court of Appeals in the Fifth Circuit.

Mr. MacIntyre:

To which we object on the ground that it is certified to by the Alcalde and purports to be a judi-
57 cial proceedings of the Third Circuit Court and is not certified by the Clerk of that Court; it is certified by Thomas Herrera, G. Dutari, and Julio Arjona Q., and is not properly authenticated as required by Sec. 321 of our Code. We wish to object to the introduction and competency of plaintiffs' exhibit now offered as Exhibit No. 1, recorded in the testimony as Exhibit "20," as not being properly authenticated. It is only authenticated by the mayor of the city, and purports to be a record of the Third Judicial Court; it is not even authenticated by Mr. McIlvaine.

Judge Fairman:

It is authenticated by the Governor (indicating); it was introduced in the former trial in this case without objection.

The Court:

It looks to me like I would have to sustain the objection.

Judge Fairman:

In the former trial in this case the Notary brought this in; it does not require certification when the Notary brought it in.

The Court:

But they are objecting now, you have not done that; you are now offering the transcript. The objection will have to be sustained.

Judge Fairman:
To which we save our exception.

3.

Judge Fairman;
Are there any other descendents of Domingo Diaz other than yourself and your sister alive at this time with rights to the estates?
A. No.

Mr. MacIntyre:
To which we object.

The Court:
Strike out that answer.

Judge Fairman::
I will ask you again: who are the sole surviving legitimate heirs of General Domingo Diaz?

Mr. MacIntyre:
To which we object.

The Court:
Objection sustained.

Judge Fairman:
Exception to it.

The Court:
You are asking him a legal conclusion.

4.

Judge Fairman::
Mr. Diaz, I exhibit to you here a document, and ask you to state if that is one of the documents of title to the Estate of Lo de Caceres?

Mr. MacIntyre:

We object to that form of questioning,—let the witness state what it is.

Judge Fairman:

I am asking if that is one of the documents of title.

The Court:

Have it marked "Exhibit," and show him the exhibit and ask him what it is,—the same thing comes
58 up every time.

Judge Fairman (To witness):

I exhibit to you here, Mr. Diaz, a document of title,—Plaintiffs' Exhibit C,—and ask you to state what it is?

A. This is a notary document of a public sale in 1895, by the chief of the Registry Office.

Q. Who made the sale?

A. It was a public sale made by the heirs of Paredes.

Q. Who was the purchaser?

A. Mrs. Catalina Lewis de Paredes.

Q. This is the same exhibit which you introduced in the former trial of this case?

A. Yes, Doctor.

Q. As set forth on pages 28 to 31, inclusive, of the record?

A. Yes.

Q. I mean the translation. We will submit Exhibit C in evidence.

Mr. MacIntyre:

To this exhibit we will object on the following grounds: this purports to be a sale made by the heirs of Ramon Garcia de Paredes in 1895 of the Estate of Lo de Ca-

ceres; the last deed purported to be introduced was a sale from Pedro Miro to a man named Jose Garcia de Paredes in 1832; there is no proof who were the heirs of Jose Garcia de Paredes and who is Ramon Garcia de Paredes, and who are the heirs of Jose Garcia de Paredes, or how and in what manner the estate sold in 1832 ever became the property of the so-called "heirs" of Ramon Garcia de Paredes. Again, we object on the ground that the vendee and vendor in this sale were one and the same person; that it was a 'wash sale' by Mrs. Catalina Lewis de Paredes and bought by herself through her son in order to get a title on record.

The Court:

I think I will sustain the objection and give the plaintiffs an exception.

* * *

Judge Fairman:

We save our exception. * * *

The Court:

The plaintiff will be permitted to make proper proof and lay the foundation, and again offer this instrument—Exhibit C—in evidence, if so desired.

5.

The Court:

Mr. Diaz, I exhibit to you here a document marked plaintiffs' Exhibit "A-1," and ask you to state what that is?

A. This is a chain of title from one owner to another of Lo de Caceres, from the year 1805 to the year 1832.

Q. It is an abstract of title. (To witness): In what way was that document issued by the Notary Public, and what notary public issued it?

A. The notary public was Francisco Marquez.

Q. What year?

A. On the 19th day of January of 1892.

59 Mr. MacIntyre:

We will object to A-1.

The Court:

He has not offered it in evidence.

Judge Fairman: (Continuing):

Mr. Diaz, this document relates to the land of Lo de Caceres?

A. Yes, sir.

Q. The lands in dispute in this case? Plaintiff offers in evidence Exhibit A-1, the same being a chain of titles commencing with the year 1806 and following to the year 1832.

Mr. MacIntyre:

We will object on the following grounds: first of all, that the exhibit itself bears on its face signs of having been altered since it was originally made; changes having been made in the original handwriting of the Notary. Second, that the alleged exhibit is a transcript of titles, the translation reading as follows: "I, Francisco, Marquez, * * * have carefully examined, * * *,"—then follows another list of purported deeds. * * * I object to this to prove title.

The Court:

Is an abstract ever admissible to prove title?

Mr. MacIntyre:
No, it is always incompetent; and I object on the ground that the original itself has been tampered with.

Judge Fairman::
The translation calls for all that.

The Court:
I cannot understand that abstract of title is admissible in evidence; the abstract of title may be correct, and it may not be correct. * * * The objection is sustained.

Judge Fairman::
Plaintiffs except. * * *

(Counsel for defendant objects to attorney for plaintiffs reading the exhibit into the record, and moves to strike out same.)

The Court:
Motion will be overruled, and this Court will assume that the Court of Appeals will examine the instrument itself to determine whether or not it is admissible.

Mr. MacIntyre:
To which we save our exception.

6.

(Witness for the defendant, Guillermo Patterson, Jr., having testified as to defendant's chain of titles, plaintiffs object.)

Judge Fairman:
The documents to which you referred to as being contained in the former transcript of record in this cause;

you have certified copies of the originals of those documents in your possession?

A. They are certified already by the Secretary of Foreign Relations and—

Q. No, you do not understand; you have the copies properly certified of the various documents?

60 A. Yes, I have.

Q. I object to any evidence of the witness with respect to any documents named in this transcript of the record (indicating) as not being the best evidence; the documents themselves being the best evidence.

The Court:

He has not stated any contents of them; he has only stated the titles.

Mr. MacIntyre:

We already moved that all evidence formerly introduced should stand, and they were all introduced.

Judge Fairman:

Subject to proper objection; I am objecting to any documents contained in this record on the grounds that the documents are the best evidence.

Mr. MacIntyre:

They are already in evidence.

The Court:

* * * He has not stated any contents yet.

Judge Fairman:

Exception.

Mr. MacIntyre:

The contents are in the record. * * *

7.

Mr. MacIntyre:

I will show you, Mr. Patterson, defendant's exhibit B-1, at page 3, and ask you what is that?

A. This is a certificate given by Mr. Alfonso Fabrega, Notary Number One, of the Republic of Panama.

Judge Fairman:

I do not know what the purpose of this is.

The Court:

To prove a lost instrument?

Mr. MacIntyre:

Yes, sir; we wish to show that the original has been lost, but this copy (indicating Exhibit B-1) has been acted on over thirty years.

Judge Fairman:

Unless it connects up materially, I offer objections on the ground that it is irrelevant to any grounds at issue.

The Court:

Objection overruled.

Judge Fairman:

Exception.

8.

Mr. MacIntyre:

* * * We offer these depositions in evidence, being pages 7, 8, 9, and 10 of defendant's Exhibit B-1, together with its translation.

Judge Fairman:

We object to the introduction of documents mentioned on the ground that it is irrelevant and does not tend to prove or disprove any issues in this cause.

The Court:

Objection overruled, and the Exhibit admitted of the pages noted.

Judge Fairman:

Exception.

61 9.

Mr. MacIntyre:

I will show you defendant's Exhibit "J," or a translation thereof already in evidence—

Judge Fairman:

The original document of that has not been offered in evidence.

Mr. MacIntyre:

The document was offered and admitted in this Court in the first suit, and unless it is incompetent it is still here.

Judge Fairman::

I demand the introduction of this in this case.

The Court:

No, you have to make your motion to strike that from the evidence which has already been admitted on the ground that it is incompetent,—or whatever ground you have; that evidence is all in the case; if there is anything incompetent it is up to you to get rid of it.

Judge Fairman:

. If your Honor please, * * * I object to any mention of this Exhibit "J" in the old transcript of the record without the introduction of the original document from which this transcript was made; * * * in fact, in the transcript of the record there does not appear the proper certificates.

The Court:

I will have to hear that on the motion now; the only point he makes that I can act on is that the records show that the instrument was not properly certified; I will have to hear from you.

Mr. MacIntyre:

On page 231,—from pages 229 to 231, is the following (reads): "Thereupon the defendant introduced in evidence the following exhibits, translations thereof being annexed to the defendant's answer as follows: 'G,' 'H,' 'I,' 'J,' 'K, 'L,' 'M,' 'N,' 'O,' 'P,' 'Q,' 'R,' 'S,' 'T,' 'U,' 'V,' and 'W,'—being certified by the Secretary of Foreign Relations of Panama as to the seals and signatures of the Notaries of all the instruments heretofore introduced, as well as the officials of the Government of the Canal Zone. * * *

The Court:

The record seems to show proper certificate; I will overrule, and give you exception.

Judge Fairman:

We still move that the original document, named Exhibit "J" be produced by the defendant.

The Court:

Objection overruled, and exception.

10.

Mr. MacIntyre:

I will offer in evidence as an ancient document, under ancient document rule, defendant's Exhibit A-1, page E, concerning which the witness has now testified.

The Court: :

Any objections, Judge?

Judge Fairman:

(Examining document.)

62 Mr. MacIntyre:

While the attorney is studying the translation, I wish to submit the document itself for inspection by the Court as to its bearing the ear marks of age. (Hands same to the Court.)

Judge Fairman:

I will simply offer objection at this time on the ground: first, that the document itself is illegible; and I object to the translation submitted, and will ask the Court that the translation submitted be either compared or corrected by the official translator.

Mr. MacIntyre:

Which we are very willing to submit to. * * *

The Court:

I will admit this in evidence with the condition that if there is any evidence to my mind that the translation is not correct, the translation shall be corrected in accordance with my findings as to the translation. The proof of this ancient document as basis of its admission

in evirence is as complete and sufficient as any evidence can be made as to a document of this character, and if it is not admissible it would be very difficult for a Court to be convinced what evidence would be sufficient to introduction.

* * * *

Judge Fairman:
There is no objection to that.

The Court:
It may be admitted in evidence.

11.

Judge Fairman:
We still object to pages 2, 3, and 4, and 5 of defendant's Exhibit B-2, for the reason that they do not state what real estate these taxes were paid upon; the notice indicated at page 1, as a notice of taxes upon the Estate of Mata Redonda,—to that notice we have no objection.

The Court:
He has testified those refer to the land in question.

Judge Fairman:
We still object on the ground that the tax receipt itself is the best evidence, and it does not state what real estate is involved.

Mr. MacIntyre:
It states "land in the Sabanas."

The Court:
Objection overruled.

Judge Fairman:
Exception.

12.

Judge Fairman:
Under the provision of plaintiffs' Exhibit R-1, which is a copy of a division of properties, among others part of the properties of the Mata Redonda between yourself and your father, what action, if any, did the Registrar of the Republic of Panama take with respect to that transaction?

Mr. MacIntyre:
To which question we object,—that is entirely immaterial.

63 The Court:
What are you trying to prove?

Judge Fairman:
I am trying to prove that Mr. Patterson and his son, by means of a pretended division, sought to rectify the description of the properties of Mata Redonda outside the Canal Zone, and that upon presenting it for registration, and even after it was registered, I am trying to prove the Registrar ordered this record cancelled on the ground it was not justified.

The Court:
The Registrar might have made a mistake; I cannot go into that proposition; if that is what it is, the objection is sustained. * * *

Judge Fairman:
The plaintiffs save an exception.

13.

Judge Fairman:

Didn't one of these suits, pursuant to those petitions, finally reach determination of the Supreme Court of the Republic of Panama?

A. I don't know what that has to do with this, but I support there was a suit finally adjudged.

Q. It was in relation to the lands you have described in this petition?

A. No, sir.

Mr. MacIntyre:

I am going to object to any evidence as to the Supreme Court of Panama about any of the lands outside the Canal Zone.

The Court (To Counsel for Plaintiffs):

That cannot help me a particle; you are wasting time; I would suggest you do not go any further with that sort of testimony,—get down to something that will help me out; this cross-examination is cinching the case for them every time you ask him a question; he has been swearing against you every question you ask.

Judge Fairman:

I am willing to have him swear against me.

The Court:

Yes, but what's the use, unless you can contradict or impeach him.

Judge Fairman:

I cannot contradict or impeach him until he gets through with his testimony.

The Court:
I never saw a greater drawn out cross-examination in my life.

Judge Fairman::
I wish to know what is the result of that law suit in Panama?

Mr. MacIntyre:
To which we object.

The Court:
Objection sustained.

Judge Fairman: :
The plaintiff offers to prove by this witness that the Supreme Court of Panama rendered a final decree wherein all the lands claimed by them as the Estate of Mata Redonda without the Canal Zone, or in conflict with the Estate of Lo de Caceres were adjudicated to the heirs of General Domingo Diaz against the claim
64 and demand of the defendant, Guillermo Patterson. That finishes my cross-examination.

14.

Mr. MacIntyre:
I offer that in evidence as otoptic proferrence;—that very paper which Mr. Patterson tried to file in Court to that sale.

Judge Fairman:
We object to it.

The Court:
It is admitted in evidence in—

Judge Fairman:

But I object. (To witness*: There was a revolution here in 1894?

A. No, this revolution lasted six or eight months; it started around March of 1895.

Q. And lasted six or eight months?

A. Yes, sir; that is all.

Q. Was there any disturbance in the city of Panama?

A. Not in the city of Panama,—but on the Isthmus.

Q. Where then?

A. In Bocas del Toro.

Q. About two hundred miles away?

A. Yes; but there was a decree forbidding all litigation, there is testimony to that effect given by the plaintiff himself.

Q. How do you account for the fact that this sale took place?

A. I said litigations.

Q. Litigations?

A. Well, that shows what some people can do, that is all.

Q. Was there anything to prevent your father from presenting this petition after that ban had been removed?

A. No, but he never paid any attention to that, and he did not object to the sale, and never thought that could bind him.

Q. It was a matter of indifference to him whether the Judge acted on this or not?

A. No, he wanted the Judge to act on it, and wanted it to be of record.

Q. You stated the Judge refused to accept it?

A. Yes, it was returned immediately.

Q. Were you with him when it was done?

A. No.

Q. How do you know then that it was done?

A. I saw him write it and come back with it.
Q. See him present it to the Judge?
A. No.
Q. Know whether he ever presented it to the Judge?
A. I know he went in for that purpose.
Q. Then you do not know what he did do?
A. Yes, I do.
Q. We object to the instrument.

The Court:
Objection overruled.

65 Judge Fairman:
Exception.

15.

(Witness JOSE PABLO MEDRANO, called by the defendant, was examined and testified in part as follows:)

Mr. MacIntyre:
I would like to produce the contract with Jaen, as witness Navarro stated on page 199 of the Record that Jaen was paying rent to Mrs. Catalina Lewis de Paredes.

The Court:
You may introduce that one.

Judge Fairman:
We object unless the signature of the lease is proven.

The Court:
Go ahead and lay the foundation.

Mr. MacIntyre:

Do you know whether Francisco Jaen had a contract in 1899 to pay rent to Mr. Patterson for 'una Cabulla'?

A. He had many contracts there, I had them there until the Zone authorities made them get out.

Q. Do you know whether Francisco Jaen signed a contract?

A. Yes, sir.

Q. Do you know whether Francisco Jaen held land under that particular contract?

A. Yes, he did.

Q. Who collected rent from Francisco Jaen?

A. I did.

Q. Do you know Jaen's signature when you see it?

A. This is his signature. (Indicating.)

Q. We wish to introduce that in evidence.

It may be introduced.

Judge Fairman: (To witness):

Did you see him sign that?

A. Yes, sir.

Q. Signed it in your presence?

A. Yes, sir.

Q. This was for one year?

A. Yes, sir.

Q. Ever issue another lease to the same man after that?

The Court:

I introduced that in evidence; now proceed with something else; it is no use wasting all this time; the ruling has been made.

Judge Fairman:
I save my exception. I wish to state the grounds.

The Court:
I hope you will not annoy me with that; you have to state your ground before ruling. Proceed with something else.

Judge Fairman:
I have nothing else.

Mr. MacIntyre:
That is all.

(Witness retires from witness stand.)

16.

Witness FELIX A. ALVEREZ, called by the plaintiffs, was examined and testified in part as follows:)

66 Judge Fairman:
Do you now one Jose Pablo Medrano?
A. Yes, for a number of years.
Q. About how many years?
A. Over eighteen years.
Q. Are you acquainted with his reputation in the vicinity in which he lives?
A. His reputation is not very good.

The Court:
Strike that out; that is not the question.

Judge Fairman: (Continuing):
Do you know it?
A. Yes, I know it.
Q. Is that reputation good or bad?

Mr. MacIntyre:
To which we object.

The Court:
Objection sustained.

Judge Fairman:
To which we save our exception.
* * * *

The Court:
Yes, but that is collateral matter. * * * Go ahead with something that is important.

Judge Fairman:
I will ask the stenographer to strike that all out.

The Court:
Strike out the whole examination except his name, his profession, and career. * * *

17.

DR. GUILLERMO PATTERSON, a witness for the defendant, was recalled, and his examination continued, in part as follows:

Mr. MacIntyre:
Handing you defendant's Exhibit B-5, I will ask you if that bears Guillermo Patterson's signature?
A. Yes, sir.
Q. In whose handwriting?
A. My father's.
Q. Do you know your father's handwriting?
A. I should say I do.

Q. By whom is that signed by?

A. Jose * * de Leon, at the request of Filipe Hermandez, who does not know how to sign.

Q. Is that the way, in Spanish, any form of document is signed by a person who cannot write?

A. Yes, sir.

Q. You know the signature of Leon?

A. Yes, sir.

Q. Know that that is his handwriting?

A. Yes, sir; it is.

Q. Do you know of your own knowledge that there was a contract for land between your father and Filipe Hermandez?

A. This is one of them, there are several.

Judge Fairman:

Is that the legal form of lease under the laws of the Republic of Panama?

67 A. Yes, sir; for the amount of money entailed it is perfectly legal.

Mr. MacIntyre:

I offer it in evidence now.

Judge Fairman:

We object on the ground there is no specific property mentioned or named in the document which is the subject of the contract other than the generic term of Mata Redonda.

The Court:

That is so well understood I do not think there should be any question about it. Objection overruled.

Judge Fairman:

Exception.

18.

DR. GUILLERMO PATTERSON was further examined and testified as follows:

Mr. MacIntyre:

Mr. Patterson, handing you Exhibit B-6, I will ask what that is?

A. This is a contract for land, between my father and Francisco Jaen in the year 1900.

Q. By whom is it signed?

A. By my father and Francisco Jaen.

Q. Do you know your father's handwriting?

A. Yes, sir.

Q. Did you hear Jose Mesrano testify he saw Francisco Jaen sign Exhibit B-4?

A. Yes, sir; and I know Francisco Jaen's signature, too.

Q. Is it the same signature on B-4 as B-6?

A. Yes, sir.

Q. And you swear that is Francisco Jaen's signature?

A. Yes, sir.

Q. Have you ever seen Francisco Jaen write his name?

A. Yes, several times.

Q. I am making the offer of B-6 in evidence.

Judge Fairman:

Mr. Patterson, these contracts or leases which you have exhibited here under your "B" exhibits, are printed forms?

A. Partly printed and partly written.

Q. But all of the essential clause of the lease are printed, the only written parts are the signatures?

A. Yes, only the signatures, names, dates and things of that sort.

Q. This particular lease, that calls for Francisco Jaen, what did you lease him, if anything, in there?

A. A parcel of land, for one year, beginning with the first of January of the present year (1900), and can be extended for one more year with agreement of both parties, giving a month's notice.

Q. Where is the land?

A. Mata Redonda.

Q. Does it so state here?

A. Not in this particular one.

Q. Is there any particular land stated in that contract or lease?

A. It says a parcel of land in his name of (blank);—omitting the name,—it was not filled in at that
68 time.

The Court:

What land was it that he did lease Jaen?

A. The Estate of Mata Redonda.

Mr. MacIntyre:

I would like to ask the witness, the lease you hold in your hand is a renewal of the lease of 1899,—Exhibit B-4.

Judge Fairman:

It speaks for itself.

The Court:

He may answer it.

Judge Fairman:

Exception.

19.

Witness: (Answering):

The contract marked Exhibit B-4 was first made out in 1899, and renewed to 1899 on the same contract by writing "prorrogar," meaning "renewal," and changing the date; then, the next year, in order not to make any more changes in the same paper, a new paper was filled out January 1, 1900, this, of course, is a renewal of the same contract; and this contract was renewed several times until Mr. Jaen had to leave there on account of the Zone authorities taking the land.

Mr. MacIntyre:

I will offer it in evidence.

Judge Fairman:

We object to Exhibit B-6 on the ground that it is not a contract of any kind or character whatsoever, or does it specify any particular land the subject of the contract.

The Court:

Objection overruled.

Judge Fairman: :

Exception.

20.

Judge Fairman:

I exhibit to you here a document, marked Plaintiffs' Exhibit "S" and ask you to state what that is?

A. This is a judgment of the Supreme Court of Panama.

Q. In regard to what?

A. In regard to the law suit of the land of Lo de Caceres with Mr. Patterson.

Q. That is the final judgment of the Court of last resort in Panama?

A. Yes, that is the final judgment of the Supreme Court of Panama.

Q. Plaintiffs tender in evidence, Plaintiffs' Exhibit "S," the same being the final decree of the Court of last resort of the Republic of Panama in matter effecting the boundaries and estates of Lo de Caceres and Mata Redonda, for that portion of said lands lying without the Canal Zone.

Mr. MacIntyre:

To which we object. The exhibit now presented formed an exhibit and part of the reply set up by plaintiff in which he plead res judicata, and was ordered stricken by this Court. The same exhibit has been offered by the plaintiff at least twice before in this trial, and objection sustained, and it has not been allowed in. We again object because that purports to be a record of judicial proceeding of lands which are not the same lands in dispute and is immaterial or irrelevant in this present suit in that this Court is not bound by any decision of the Supreme Court of Panama, but it bound by the mandate of the Circuit Court of Appeals of the Fifth Circuit, as to the trial of this case.

69

The Court:

This is on the outside of this boundary line?

Mr. MacIntyre:

It is outside of the Canal Zone in the Republic of Panama.

The Court:
The objection will be sustained, and give the plaintiff an exception.

Judge Fairman:
Exception.

21.

ALFONSO FABREGA, a witness for the plaintiffs, was examined and testified in part as follows:

Judge Fairman:
From your knowledge of the law and procedure in Panama, in what respects are notarial documents received by their Courts in evidence?

Mr. MacIntyre:
To which we object.

The Court:
What I want to know is how you are going to receive the laws in Panama at one time, how that will effect us here?

Judge Fairman:
I do not know how it will effect,—that will be for your honor to determine.

The Court:
I will sustain the objection.

Judge Fairman:
Save an exception; and offer to prove by this witness that notarial documents, properly authenticated, are received in the Courts of Panama in the trial of civil ac-

tions as being authentic and proper evidence, until disproved or contradicted.

Q. (Continuing): I exhibit to you a document, Mr. Fabrega, and ask you to state if that is your signature?

A. Yes, sir.

Q. In what capacity did you issue this document?

A. As Notary Public Number One.

Q. That is, then, an official document issued by your office?

A. Yes, sir.

Q. We submit in evidence plaintiffs' Exhibit No. 2.

Mr. MacIntyre:

We object on the grounds that this Exhibit No. 2 is the same exhibit formerly offered by the party as Exhibit A-1, and is merely an index of an abstract of title, being merely a list made by the Notary, which is in his office.

70

The Court:

I ruled on that once before; the objection is sustained.

Judge Fairman:

We save our exception.

22.

Judge Fairman:

I exhibit to you here, a certificate which you have identified and ask you to state whether or not any of the deeds mentioned in that certificate are set forth in the index in your office?

Mr. MacIntyre:

We object to the witness testifying from Exhibit No. 2, which is not in evidence.

The Court:
Objection sustained.

Judge Fairman:
Exception. Plaintiff to offer by the testimony of the witness that the deeds described in the certificate offered in evidence as plaintiffs' Exhibit No. 2, are contained in the index in the office of the Notary Number One of the Republic of Panama.

Mr. MacIntyre:
To which we object on the ground that the only testimony as to the existence of a deed not proven to be lost, or its contents, is the deed itself.

The Court:
The objection is sustained.

Judge Fairman:
Exception. That is all, Mr. Fabrega.

Filed in open Court this 2nd day of June, 1921.
(Sgd.) E. M. GOOLSBY,
Clerk of the Court.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,
v. No. 199
Guillermo Patterson, Defendant.

On this third day of June, A. D. 1921, the parties to this action are in open Court in person and by their attorneys respectively; the plaintiff in open Court gives notice of appeal, and files in open Court his notice of

appeal, together with his assignment of errors,
71 and moves the Court to fix the bond on appeal herein. The Court thereupon grants and allows said appeal upon giving a bond conditioned as required by the law in the sum of Four Thousand Dollars ($4,000.00), the said bond to be filed on or before June 6, 1921. Said petition for appeal and assignment of errors being in words and figures as follows:

PETITION FOR APPEAL.

United States of America, Canal Zone.

In the United States District Court, District of the Canal Zone, Balboa Division.

Domingo Diaz, et al., Plaintiffs,

vs. Number 199 Civil.

Guillermo Patterson, Defendant.

To the Honorable John W. Hanan, Judge of the United States District Court for the District of the Canal Zone, Balboa Division:

The above named plaintiffs, to-wit: Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, feeling themselves aggrieved by the decree made and entered in this cause on the 27th day of May, 1921, does hereby appeal from said decree to the Circuit Court of Appeals for the Fifth Circuit, for the reasons specified in the assignment of errors which is filed herewith, and they pray that their appeal be allowed and that citation issue as provided by law, and that a transcript of the record, proceedings and papers upon which said decree was based, duly authenticated, may be sent to the United

States Circuit Court of Appeals for the Fifth Circuit sitting at New Orleans, Louisiana.

And your petitioner further prays that the proper order touching the security to be required of him to perfect their appeal and to operate as a supersedeas herein, as by statute provided, be made.

(Sgd.) C. P. FAIRMAN,
Attorney for Plaintiffs.

The foregoing petition and the appeal prayed for, granted and allowed, upon giving bond conditioned as required by law in the sum of Four
72 Thousand Dollars.

(Sgd.) JOHN W. HANAN,
Judge.

ASSIGNMENT OF ERRORS.

United States of America, Canal Zone.

In the United States District Court, District of the Canal Zone, Balboa Division.

Domingo Diaz, et al., Plaintiffs,
vs. Number 199 Civil.
Guillermo Patterson, Defendant.

And now on this 3rd day of June, 1921, come the plaintiffs, Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., in open Court, by their attorney, C. P. Fairman, and say that the decree entered in the above cause on the 27th day of May, 1921, is erroneous and unjust to the plaintiffs:

First. Because the Court erred in sustaining the motion of the defendant in striking the plea of res judi-

cata made on behalf of the plaintiffs in their reply to the affirmative allegations set forth in the answer of the said defendant.

Second. Because the Court erred in the following numbered findings of fact as set forth in the decree filed herein, to-wit: Nos. 1, 2, 3, 6, 7, 8, 9, 10, 23, 25, 26, 27, 30, 31, and the lettered paragraphs thereof, 32 and 33, for the reason there is no legal evidence to support the same.

Third. Because the Court erred in refusing the first finding of fact submitted on behalf of the plaintiffs, with special reference to the description of the property therein set forth.

Fourth. Because the Court erred in refusing the third, fourth and fifth findings of fact submitted on behalf of plaintiffs.

Fifth. Because the Court erred in refusing the sixth finding of fact submitted on behalf of plain-
73 tiffs, with special reference to the boundaries of the lands and estate of "Lo de Caceres," as therein set forth.

Sixth. That the Court erred in refusing the seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth and seventeenth finding of facts submitted on behalf of the plaintiffs herein.

Seventh. Because the said decree is contrary to the law and the prayer for relief of defendant's answer filed herein, and is unsupportd by the evidence introduced in the trial hereof.

Eighth. Because the said decree should have been in favor of the plaintiffs and against the said defendant, under the pleadings and proof submitted in the trial hereof.

Ninth. Because the Court erred in refusing to admit the evidence submitted on behalf of the plaintiffs, and ruling that the same was incompetent or admitting the same conditionally, over the objections of the plaintiffs, to which rulings exceptions were duly taken, as such evidence will more particularly appear in the memorandum hereto annexed, marked Exhibit "A" as a part of the Ninth Assignment of Error.

Tenth. Because the Court erred in admitting incompetent and illegal evidence submitted on behalf of the defendant over the objections of the plaintiffs, to which ruling of the Court exceptions were duly saved, as such evidence, rulings and exceptions will more fully appear in the memorandum hereto annexed, marked "Exhibit "B" as part of the Tenth Assignment of Error."

Eleventh. Because the Court erred in said decree wherein it is ordered that the full amount of $26,160.00, as set forth in the second finding of fact made by the Court, be paid to the said defendant, for the reason, that the awards mentioned in said finding of fact show on their face, there are other claimants to the said fund, who have never been made parties to this action, as will more fully appear from the copy of said awards hereto annexed, marked "Exhibit "C" as a part of the Eleventh Assignment of Error."

Twelfth. Because the Court erred in failing to sustain the motion of defendant made at the conclusion of

the introduction of evidence on behalf of the plaintiff for a dismissal of the case, for the reason that the Court proceeded to warn the attorney for the defendant as to the result should his said motion be sustained, and thereupon gave to the defendant the recess of Court in order for the attorney for the defendant to de-
74 termine what course of action he would pursue in view of the warning given to him by the Court, as the same will more fully appear from a copy of the proceedings and transcript in that behalf hereto annexed, marked "Exhibit "D," as a part of the Twelfth Assignment of Error."

Whereas, the plaintiffs pray that said decree of the United States District Court for the District of the Canal Zone, in the Balboa Division thereof, be reversed, and that such direction be given and decree made as in justice and equity the said plaintiffs are entitled to receive, together with costs to be taxed.

(Sgd.) C. P. FAIRMAN,
Attorney for Plaintiffs.

EXHIBIT "A."

As part of Ninth Assignment of Error.

Judge Fairman:

Plaintiff then submits in evidence certified copy of the decree of the Supreme Court of Panama, which has been certified to by the Secretary of Foreign Relations of the Republic of Panama, and by John H. Smith, Acting Executive Secretary of The Panama Canal, in charge of the seal of the Government of the Canal Zone, in support of the plea of res judicata.

* * * *

Mr. MacIntyre:

We would have several objections to make to this,—both technical, and objections which go direct to the merits; technically, we object on the ground that it is submitted without a translated copy attached as required by the Code—

Judge Fairman:

The translation is attached.

Mr. MacIntyre:

The translation being furnished, that objection is withdrawn. We object to it on the ground that it purports to be a judgment of the Supreme Court of Panama, and does not bear the signature of the presiding judge or magistrate of that Court, nor the secretary, but pretends to have the signature of the judge or secretary of some Circuit Court of Panama. We object to its further introduction in support of the plea of res judicata because that plea was ordered stricken on motion of the defendant being allowed by this Court. We further object by the decision of the Court of Panama because proper foundation has not been laid for the introduction of any such testimony.

* * * *

75 The Court:

Objection to the introduction will be sustained, and exception.

Judge Fairman: (To witness):

I exhibit to you here, Mr. Diaz, a document of title,—Plaintiffs' Exhibit C,—and ask you to state what that is?

A. This is a notary document of a public sale in 1985, by the chief of the Registry Office.

Q. Who made the sale?

A. It was a public sale made by the heirs of Paredes.

Q. Who was the purchaser?

A. Mrs. Catalina Lewis de Paredes.

Q. This is the same exhibit which you introduced in the former trial of this case?

A. Yes, Doctor.

Q. As set forth on pages 28 to 31, inclusive, of the record?

A. Yes.

Q. I mean the translation. We will submit Exhibit C in evidence.

Mr. MacIntyre:

To this exhibit we will object on the following ground: this purports to be a sale made by the heirs of Ramon Garcia de Paredes, in 1895, of the Estate of Lo de Caceres; the last deed purported to be introduced was a sale from Pedro Miro to a man named Jose Garcia de Paredes in 1832; there is no proof who were the heirs of Jose Garcia de Paredes and who is Ramon Garcia de Paredes, and who are the heirs of Jose Garcia de Paredes, or how and in what manner the Estate sold in 1832 ever became the property of the so-called "heirs" of Ramon Garcia de Paredes. Again, we object on the ground that the vendee and vendor in this sale were one and the same person; that it was a 'wash sale' by Mrs. Catalina Lewis de Paredes and bought by herself through her son in order to get a title on record.

The Court:

I think I will sustain the objection and give the plaintiffs an exception.

Judge Fairman:

Mr. Diaz, I exhibit to you here a document marked plaintiffs' Exhibit "A-1," and ask you to state what that is?

A. This is a chain of title from one owner to another of Lo de Caceres, from the year 1806 to the year 1832.

Q. It is an abstract of title. (To witness): In what way was that document issued by the Notary Public, and what notary public issued it?

A. The Notary Public was Francisco Marquez.

Q. What year?

A. On the 19th day of January of 1892.

Mr. MacIntyre:

We will object to A-1.

The Court:

He has not offered it in evidence.

Judge Fairman: (Continuing):

Mr. Diaz, this document relates to the land of Lo de-Caceres?

76 A. Yes, sir.

Q. The lands in dispute in this case ? Plaintiff offers in evidence Exhibit A-1, the same being a chain of titles commencing with the year 1806 and following to the year 1832.

Mr. MacIntyre:

We will object on the following grounds: first of all, that the exhibit itself bears on its face signs of having been altered since it was originally made; changes having been made in the original handwriting of the Notary. Second, that the alleged exhibit is a transcript of titles, the translation reading as follows: "I, Francisco

Marques, * * * have carefully examined * * *"—then follows another list of purported deeds. * * * I object to this to prove title.

The Court:
Is an abstract ever admissible to prove title?

Mr. MacIntyre:
No, it is always incompetent; and I object on the ground that the original itself has been tampered with.

Judge Fairman:
The translation calls for all that.

The Court:
I cannot understand that abstract of title is admissible in evidence; the abstract may be correct, and it may not be correct. The objection is sustained.

Judge Fairman:
Plaintiffs except. * * *

(Counsel for defendant objects to attorney for plaintiffs reading the exhibit into the record, and moves to strike out same.)

The Court:
Motion will be overruled, and this Court will assume that the Court of Appeals will examine the instrument itself to determine whether or not it is admissible.

Mr. MacIntyre:
To which we save our exception.

Judge Fairman:
We still object to pages 2, 3, and 4, and 5 of defendant's Exhibit B-2, for the reason that they do not state

what real estate these taxes were paid upon; the notice indicated at page 1, as a notice of taxes upon the Estate of Mata Redonda,—to that notice we have no objection.

The Court:
He has testified those refer to the land in question.

Judge Fairman:
We still object on the ground that the tax receipt itself is the best evidence, and it does not state what real estate is involved.

Mr. MacIntyre:
It states 'land in the Sabanas.'

The Court:
Objection overruled.

Judge Fairman:
Exception.

77 Judge Fairman:
Under the provisions of plaintiffs' Exhibit R-1, which is a copy of a division of properties, among others, part of the properties of the Meta Redonda between yourself and your father, what action, if any, did the Registrar of the Republic of Panama take with respect to that transaction?

Mr. MacIntyre:
To which question we object,—that is entirely immaterial.

The Court:
What are you trying to prove?

Judge Fairman:

I am trying to prove that Mr. Patterson and his son, by means of a pretended division, sought to rectify the description of the properties of Mata Redonda outside the Canal Zone, and that upon presenting it for registration, and even after it was registered, I am trying to prove the Registrar ordered this record cancelled on the ground it was not justified.

The Court:

The Registrar might have made a mistake; I cannot go into that proposition; if that is what it is, the objection is sustained. * *

Judge Fairman:

The plaintiffs save an exception.

Judge Fairman:

Didn't one of these suits, pursuant to those petitions, finally reach determination of the Supreme Court of the Republic of Panama?

A. I don't know what that has to do with this, but I suppose there was a suit finally adjudged.

Q. It was in relation to the lands you have described in this petition?

A. No, sir.

Mr. MacIntyre:

I am going to object to any evidence as to the Supreme Court of Panama about any of the lands outside the Canal Zone.

The Court:

(To Counsel for Plaintiffs): That cannot help me a particle; you are wasting time; I would suggest you do

not go any further with that sort of testimony,—get down to something that will help me out;—this cross-examination is cinching the case for them every time you ask him a question; he has been swearing against you every question you ask.

Judge Fairman:
I am willing to have him swear against me.

The Court:
Yes, but what's the use, unless you can contradict or impeach him.

Judge Fairman:
I cannot contradict or impeach him until he gets through with his testimony.

The Court:
I never saw a greater drawn out cross-examination in my life.

Judge Fairman:
I wish to know what is the result of that law suit in Panama?

78 Mr. MacIntyre:
To which we object.

The Court:
Objection sustained, and exception noted.

Judge Fairman:
The plaintiff offers to prove by this witness that the Supreme Court of Panama rendered a final decree wherein all the lands claimed by them as the Estate of Mata Redonda without the Canal Zone, or in conflict with the Estate of Lo de Caceres were adjudicated to the heirs of

General Domingo Diaz against the claim and demand of the defendant, Guillermo Patterson. That finishes my cross-examination.

DR. GUILLERMO PATTERSON, a witness for the defendant, was recalled and his examination continued, in part, as follows:

Mr. MacIntyre:

Handing you defendant's Exhibit B-5, I will ask you if that bears Guillermo Patterson's signature?

A. Yes, sir.

Q. In whose handwriting?

A. My father's.

Q. Do you know your father's handwriting?

A. I should say I do.

Q. By whom is that signed by?

A. Jose de Leon, at the request of Filipe Hernandez, who does not know how to sign.

Q. Is that the way, in Spanish, any form of document is signed by a person who cannot write?

A. Yes, sir.

Q. You know the signature of Leon?

A. Yes, sir.

Q. Know that that is his handwriting?

A. Yes, sir, it is.

Q. Do you know of your own knowledge that there was a contract for land between your father and Filipe Hernandez?

A. This is one of them, there are several.

Judge Fairman:

Is that the legal form of lease under the laws of the Republic of Panama?

A. Yes, sir, for the amount of money entailed it is perfectly legal.

Mr. MacIntyre:
I offer it in evidence now.

Judge Fairman:
We object on the ground there is no specific property mentioned or named in the document which is the subject of the contract other than the generic term of Mata Redonda.

The Court:
That is so well understood I do not think there should be any question about it. Objection overruled.

Judge Fairman:
Exception.

79 Judge Fairman:
I exhibit to you here a document, marked Plaintiff's Exhibit "S," and ask you to state what that is?

A. This is a judgment of the Supreme Court of Panama.

Q. In regard to what?

A. In regard to the law suit of the land of Lo de Caceres with Mr. Patterson.

Q. That is the final judgment of the Court of last resort in Panama?

A. Yes, that is the final judgment of the Supreme Court of Panama.

Q. Plaintiffffs tender in evidence, Plaintiffs' Exhibit "S," the same being the final decree of the Court of last resort of the Republic of Panama in matter effecting

the boundaries and estates of Lo de Caceres and Mata Redonda, for that portion of said lands lying without the Canal Zone.

Mr. MacIntyre:

To which we object. The exhibit now presented formed an exhibit and part of the reply set up by plaintiff in which he plead res judicata, and was ordered stricken by this Court. The same exhibit has been offered by the plaintiff at least twice before in this trial, and objection sustained, and it has not been allowed in. We again object because that purports to be a record of a judicial proceeding of lands which are not the same lands in dispute and is immaterial or irrelevant in this present suit in that this Court is not bound by any decision of the Supreme Court of Panama, but is bound by the mandate of the Circuit Court of Appeals of the Fifth Circuit, as to the trial of this case.

The Court:

This is on the outside of this boundary line?

Mr. MacIntyre:

It is outside of the Canal Zone in the Republic of Panama.

The Court:

The objection will be sustained, and give the plaintiff an exception.

Judge Fairman:

Exception.

ALFONSO FABREGA, a witness for the plaintiffs, was examined and testified in part as follows:

Judge Fairman:
From your knowledge of the law and procedure in Panama, in what respects are notarial documents received by their Courts in evidence?

Mr. MacIntyre:
To which we object.

The Court:
What I want to know is how you are going to receive the laws in Panama at one time, how that will effect us here?

Judge Fairman:
I do not know how it will effect,—that will be for Your Honor to determine.

The Court:
I will sustain the objection.

80 Judge Fairman:
Save an exception; and offer to prove by this witness that notarial documents, properly authenticated, are received in the Courts of Panama in the trial of civil actions as being authentic and proper evidence, until disproved or contradicted.

Q. (Continuing): I exhibit to you a document, Mr. Fabrega, and ask you to state if that is your signature?
A. Yes, sir.
Q In what capacity did you issue this document?
A. As Notary Public Number One.

Q. That is, then, an official document issued by your office?

A. Yes, sir.

Q. We submit in evidence plaintiff's Exhibit No. 2.

Mr. MacIntyre:

We object on the grounds that this Exhibit No. 2 is the same exhibit formerly offered by the party as Exhibit A-1, and is merely an index of an abstract of title, being merely a list made by the Notary, which is in his office.

The Court:

I ruled on that once before; the objection is sustained.

Judge Fairman:

We save our exception.

* * * *

Judge Fairman:

I exhibit to you here, a certificate which you have identified and ask you to state whether or not any of the deeds mentioned in that certificate are set forth in the index of your office?

Mr. MacIntyre:

We object to the witness testifying from Exhibit No. 2, which is not in evidence.

The Court:

Objection sustained.

Judge Fairman:

Exception. Plaintiff to offer by the testimony of the witness that the deeds described in the certificate offered

in evidence as plaintiff's Exhibit No. 2, are contained in the index in the office of the Notary Number One of the Republic of Panama.

Mr. MacIntyre:
To which we object on the ground that the only testimony as to the existence of a deed not proven to be lost, or its contents, is the deed itself.

The Court:
The objection is sustained.

Judge Fairman:
Exception. That is all, Mr. Fabrega.

EXHIBIT "B"

As Part of Tenth Assignment of Error.

Mr. MacIntyre:
I will show you, Mr. Patterson, defendant's exhibit B-1, at page 3, and ask you what is that?

81 A. This is a certificate given by Mr. Alfonso Fabrega, Notary Public Number One, of the Republic of Panama.

Judge Fairman:
I do not know what the purpose of this is.

The Court:
To prove a lost instrument?

Mr. MacIntyre:
Yes, sir; we wish to show that the original has been lost, but this copy (indicating Exhibit B-1) has been acted on over thirty years.

Judge Fairman:
Unless it connects up materially, I offer objections on the ground that it is irrelevant to any grounds at issue.

The Court:
Objection overruled.

Judge Fairman:
Exception.

Mr. MacIntyre:
* * * We offer these depositions in evidence; being pages 7, 8, 9, 10 of defendant's Exhibit B-1, together with its translation.

Judge Fairman:
We object to the introduction of documents mentioned on the ground that it is irrelevant and does not tend to prove or disprove any issues in this cause.

The Court:
Objection overruled, and the Exhibit admitted of the pages noted.

Judge Fairman:
Exception.

Mr. MacIntyre:
I offer that in evidence as otoptic profference;—that very paper which Mr. Patterson tried to file in Court to that sale.

Judge Fairman:
We object to it.

The Court:

It is admitted in evidence in—

Judge Fairman:

But I object. (To witness): There was a revolution here in 1894?

A. No, this revolution lasted six or eight months; it started around March of 1895.

Q. And lasted six or eight months?

A. Yes, sir, that is all.

Q. Was there any disturbance in the city of Panama?

A. Not in the city of Panama,—but on the Isthmus.

Q. Where then?

A. In Bocas del Toro.

Q. About two hundred miles away?

A. Yes, but there was a decree forbidding all litigation; there is testimony to that effect given by the plaintiff himself.

Q. How do you account for the fact that this sale took place?

A. I said litigation.

Q. Litigations?

A. Well, that shows what some people can do, that is all.

82 Q. Was there anything to prevent your father from presenting this petition after that ban had been removed?

A. No, but he never paid any attention to that, and he did not object to the sale, and never thought that could bind him.

Q. It was a matter of indifference to him whether the Judge acted on this or not?

A. No, he wanted the Judge to act on it, and wanted it to be of record.

Q. You stated the Judge refused to accept it?

A. Yes, it was returned immediately.
Q. Were you with him when it was done?
A. No.
Q. How do you know then that it was done?
A. I saw him write it and come back with it.
Q. See him present it to the Judge?
A. No.
Q. Know whether he even presented it to the Judge?
A. I know he went in for that purpose.
Q. Then you do not know what he did do?
A. Yes, I do.
Q. We object to the instrument.

The Court:
Objection overruled.

Judge Fairman:
Exception.

EXHIBIT "C."

As Part of Eleventh Assignment of Error.

Joint Commission

United States of America
and
Republic of Panama.

In the matter of the claim of Guillermo Patterson,	Award No. 188.
For property located near Panama Known as	Docket No. 2565.
Mata Redonda.	January 16, 1919.

With reference to the above entitled claim and the claims of Domingo Diaz, et al, Adolfo Aleman, et al, and

Ernesto Arosemena, et al, there was filed with the Joint Commission on January 10, 1919, a stipulation signed by Frank Feuille, Counsel for the Government of the United States; Hermodio Arias, attorney for Domingo Diaz, et al, and for Adolfo Aleman, et al, and Stevens Ganson, attorney for Guillermo Patterson and for Ernesto Arosemena, et al, showing the Commission that counsel for the Government and counsel representing the claimant in each case have agreed on the following matters, to-wit:

1. That the value of the improvements exclusive of pastures on the 1101 hectares of land is the sum of $6,000.

2. That of this amount Three Thousand Dollars ($3,000) or one-half thereof pertains to the area in dispute between the above named Domingo Diaz, et al, Adolfo Aleman, et al, Ernesto Arosemena, et al, and Guillermo Patterson and should be deposited in the District Courts of the Canal Zone, Balboa Division.

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3. That the remaining Three Thousand Dollars, ($3,000) by award of the Joint Commission may be paid direct to Guillermo Patterson as owner of the land upon which said improvements are situated.

In view of this stipulation, as award is hereby made against the United States in the total sum of Six Thousand Dollars, U. S. Currency, ...$6,000.00 for all rights, title and interest which Guillermo Patterson, Domingo Diaz, et al, Adolfo Aleman, et al, and Ernesto Arosemena, et al, may possess or may have possessed in and to the improvements, exclusive of the pas-

tures, on the 1101 hectares of land described in the claim of Guillermo Patterson, Docket No. 2565, including any and all damages sustained by claimants on account of the expropriation of these improvements by the United States of America.

One-half of this $6,000.00 or Three Thousand Dollars, U. S. Currency $3,000.00
is hereby ordered paid in the District Court of the Canal Zone, Balboa Division, until such time as that Court shall have determined the conflict existing as to the ownership of the land.

The remaining Three Thousand Dollars, U. S. Currency $3,000.00
is hereby ordered paid to Guillermo Patterson as owner of the lands upon which the improvements are situated.

Total $6,000.00

This award shall be paid on or before the 16th day of February, 1919, and if payment or tender of payment is not made on or before that date, said award shall thereafter bear interest at the rate of six per centum (6%) per annum, until paid.

The above stipulation and award are in no way to be considered as affecting the value of the lands which form the basis of this claim, nor of the pastures therein.

Done at the National Palace, Republic of Panama, this 16th day of January, 1919.

FEDERICO BOYD,
GEORGE A. CONNOLLY,
RICARDO J. ALFARO,
BURT NEW,
Commissioners.

Joint Commission

United States of America
and
Republic of Panama.
Panama.

In the matter of the claim of
Guillermo Patterson,
For property located near Panama
Known as
Mata Redonda.

Award No. 189.
Docket No. 2565.

January 24, 1919.

Claimant above named on the 9th day of November, 1914, filed his claim before the Joint Commission in which he asked for judgment against the United States in the sum of $625,000.00, for certain property appro-
84 priated under the terms of the treaty between the United States and the Republic of Panama.

During the trial of the claim the attention of the Commission was called to the fact that a large portion of the lands in claim was also claimed by other claimants in other claims now pending before the Joint Commission. All of these claimants were notified of the proceedings and appeared by counsel during the trial of the case.

It is stipulated by counsel that the entire area known as "Mata Redonda," subject to the present claim, consists of 1101 hectares. Of this area 565 hectares are the undisputed property of Guillermo Patterson, the above named claimant. The remaining 536 hectares are the subject of a dispute between the following parties:

1. Guillermo Patterson.

2. The Aleman Family consisting of Josefina Vallarino de Aleman, Jose Maria Aleman, and Adolfo Ale-

man V., heirs of Adolfo Aleman, who are claimants in claim docket No. 3257 covering the property known as "La Gloria."

3. The Arosemena Family consisting of Ernesto Arosemena, Carlos C. Arosemena, Florencio Arosemena, Dolores H. Arosemena, Hercillia D. Arosemena, Delia Arosemena de Uribe, who are claimants in claim docket No. 2737, covering the property known as "San Jose."

4. Domingo Diaz, in his own name and as attorney in fact for Mrs. Elisa A. vda. de Diaz, and Isabel Diaz de Jimenez, heirs of Domingo Diaz, claimant in claim docket No. 3260 covering the property known as "Lo de Caceres."

After the termination of the trial of the case, and while the matter was still under submission before the Joint Commission, our attention was called to a stipulation signed by counsel for the interested parties, agreeing to the making of an award in the total sum of Six Thousand Dollars for the improvements on the lands above referred to, exclusive of pastures, and in accordance with this stipulation an award in the sum of Six Thousand Dollars ($6,000.00) was made by the Commission on the 16th day of January, 1919.

The Commission, after carefully considering the evidence submitted both by the claimant and the Government, and the awards heretofore made by the Commission as at present constituted, has unanimously decided upon an award in the sum of Thirty-Seven Thousand Two Hundred Eighty-five Dollars, U. S. Currency, $37,285.00. This amount is hereby directed by the Commission to be paid as follows:

To Guillermo Patterson, claimant above-named, the sum of Fourteen Thousand, One Hundred Twenty-five

Dollars $14,125.00
for all right, title and interest the said Guillermo Patterson may possess or may have possessed in and to the 565 hectares of the Mata Redonda estate not in dispute, described in claim docket No. 2565, including any and all damages, sustained on account of the expropriation of this property by the United States of America.

The sum of Twenty-Three Thousand One Hundred Sixty Dollars, U. S. Currency, ...$23,160.00
representing the value of the lands embraced in the disputed area, consisting of 536 hectares, including any and all damagges sustained on account of the expropriation of this property by the United States of America, is hereby ordered deposited in the District Court of the Canal Zone, Balboa Division, to await the decision of said Court as to the ownership thereof.

If payment or tender of payment of this award is not made on or before the 24th day of February, 1919, said award shall thereafter bear interest at the rate of six per centum (6%) per annum until paid.

Done at the National Palace, Panama, this
85 24th day of January, 1919.

FEDERICO BOYD,
RICARDO J. ALFARO,
GEORGE A. CONNOLLY,
BURT NEW,
Commissioners.

EXHIBIT "D,"

As Part of Twelfth Assignment of Error.

Judge Fairman:

At this point, if Your Honor please, in view of the rejection by the Court of Plaintiffs' Exhibit A-1, I will

ask permission to obtain from the Notary's office, the deeds mentioned and described in this transcript or abstract of title to introduce as evidence in this case.

The Court:

I have nothing to do with that,—you can get all the certified copies you want.

Judge Fairman:

I am simply asking to offer to introduce them after I get these papers. I rest.

The Court:

Of course; the defense may commence.

Mr. MacIntyre:

I move the plaintiff's case be dismissed for the following reason: the plaintiff so far has only introduced in evidence non-conditinally three exhibits, the map made by Mr. Malsbury, and Exhibits A, and B; every other proof of title, or every other evidence of title depended upon by the plaintiffs to prove their recorded title has only been admitted provisionally and conditionally, and is not yet fully before the Court, and has not been connected up; the plaintiff has rested his case before connecting up any of his chain of title. It is a further maxim of real estate law that the plaintiff can win only by the strength of his own title and not by the weakness of the defendant's title. The plaintiff has a claim of record title from 1736 to the present time which he has absolutely failed to prove by competent evidence before this Court.

The Court:

Just think over in your mind what you are trying to do. You have a complaint here to quiet title,—suppose I dismiss this suit?

Mr. MacIntyre:
We are in open and nortorious possession of this land.

The Court:
The Court has not so found yet.

Mr. MacIntyre:
The Court has found we are in possession by ocular inspection.

The Court:
No, I have not found that—

86 Mr. MacIntyre:
The Court can certainly not find anything from the testimony of the plaintiff.

The Court:
I have not gotten to the point of deciding anything.

Mr. MacIntyre:
I ask to withdraw that motion for the moment, for the purpose of making another.

The Court:
The plaintiff has not proven any case so far; suppose I find for the defendant then where are you? You have got this still on your hands,—If I find the plaintiff has not proven title, then where are you?

Mr. MacIntyre:
Then it is our case.

The Court:
I do not think you would get very far; tomorrow morning he may file another complaint.

Mr. MacIntyre:
I ask to withdraw that motion.

The Court:
You may.

Mr. MacIntyre:
The plaintiff having rested his case, the defendant moves that all exhibits admitted conditionally on the promise of plaintiff connecting them up before finishing his case be stricken from the record, and all evidence based on those exhibits and admitted conditionally and provisionally be likewise stricken.

The Court:
Motion overruled and exception. I told him he may have time to connect them.

Mr. MacIntyre:
Then he has not rested.

Judge Fairman:
Rested conditionally, until I can produce these documents; I cannot get the documents this morning.

Mr. MacIntyre:
The plaintiff has rested then.

The Court:
You are a little too spontaneous to-day; you want to think where you are at,—you may get in a hole you do not want to get into.

Mr. MacIntyre:
I would ask now that my first motion be re-made,—the one I made first.

The Court:
If you are going to make that motion I will sustain it, and you will be put in a hole; then you will learn where you are at.

Mr. MacIntyre:
May it please Your Honor, may we have a five minute recess?

The Court:
Yes.

(Recess taken).

Mr. MacIntyre:
We wish to withdraw the motion made for dismissal, and at this time the defendant moves for judgment in favor of defendant on the ground that plaintiff has failed to make his case and his allegations are
87 not supported by his proof,—they are materially at variance.

The Court:
I will overrule your motion for that, and if you want me to find that the plaintiff has not proven his case—

Mr. MacIntyre:
(Interrupting): We have withdrawn that; and now move for judgment.

The Court:
I will overrule that motion for judgment.

Mr. MacIntyre:
Exception.

Filed in open Court this 3rd day of June, 1921.
(Sgd.) E. M. GOOLSBY,
Clerk of the Court.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this fourth day of June, A. D. 1921, the plaintiff is in open Court, and the defendant in person and by attorney; comes the plaintiff in open Court and files a stipulation for appeal bond herein together with Manager's check in the sum of Four Thousand Dollars ($4,000.00); the said stipulation is approved by the Court and filed, and is in words and figures as follows:

BOND ON APPEAL.

United States of America, Canal Zone.

In the United States District Court, in and for the Canal Zone, Balboa Division.

Elisia Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. Civil, No. 199.
Guillermo Patterson, Defendant.

Know all men by these presents that I, Domingo Diaz A., one of the plaintiffs in the above entitled cause, is held and firmly bound unto Guillermo Patterson in the full and just sum of Four Thousand Dollars ($4,000.00)

to be paid to the said Guillermo Patterson, his
88 certain attorneys, executors, administrators or assigns, for which payment well and truly to be made I do bind myself, my heirs, executors and administrators, jointly and severally by these presents.

Witness my hand and seal this 4th day of June, A. D. 1921.

Whereas, lately at a District Court of the United States for the District of the Canal Zone, in the Balboa Division thereof, in a suit pending in said Court, between Elisia Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., plaintiffs, and Guillermo Patterson, defendant, a decree was rendered against the said plaintiffs, and the said plaintiffs having obtained an appeal, and filed a copy thereof in the Clerk's office of the said Court to reverse the decree in the aforesaid suit, and a citation directed to the said Guillermo Patterson citing and admonishing him to appear at a session of the United States Circuit Court of Appeals for the Fifth Circuit, to be holden in the city of New Orleans, Louisiana.

And be it further known that as security for the faithful payment of the amount of this obligation according to the terms and conditions thereof, I hereby deposit with the Clerk of this Court the certified check of International Banking Corporation and render the same hereby subject to any order of the Court or judgment which may be made in the premises.

Now, the condition of the above obligation is such, that if the said plaintiffs above named shall prosecute their appeal to effect, and answer all damages and costs, if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

(Sgd.) DOMINGO DIAZ A.

Sealed and delivered in the presence of
(Sgd.) HARRY V. SNYDER.
(Sgd.) H. A. B. SCHWARTZ.

Taken and approved: This 4th day of June, 1921.
(Sgd.) JOHN W. HANAN,
Judge, United States District Court, District of the Canal Zone.

Filed in open Court this 4th day of June, 1921.
(Sgd.) E. M. GOOLSBY,
Clerk of the Court.

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89 CITATION ON APPEAL.

United States of America, Canal Zone.

In the United States District Court, District of the Canal Zone, Balboa Division.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. Civil, No. 199.
Guillermo Patterson, Defendant.

To the above named Guillermo Patterson, or his attorneys of record, Messrs. W. C. Todd and Wm. C. MacIntyre, Greeting:

Whereas the above named Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., have lately appealed to the United States Circuit Court of Appeals for the Fifth Circuit at New Orleans, from a decree lately rendered in the United States District Court for the District of the Canal Zone, Balboa Division, made in favor of you, and the said appellants have filed secur-

ity required by law, you are therefore, hereby cited to appear before the said United States Circuit Court of Appeals at the City of New Orleans, on the twenty-first day of November next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at Cristobal, Canal Zone, this 17th day of October, 1921.

(Sgd.) CHARLES KERR,
Judge, United States District Court, for the District of the Canal Zone.

Service of the above and foregoing Citation on Appeal made this 17th day of October, 1921, by delivering a copy hereof to Mr. W. C. Todd, one of the attorneys of record for Guillermo Patterson, appellee.

(Sgd.) HORACE D. RIDENOUR.
United States Marshal.
By FRANK T. HAMLIN, Deputy.

Service accepted, Oct. 17, 1921.
(Sgd.) TODD & MacINTYRE,
Per W. C. TODD.

Filed Oct. 18, 1921, in the office of the Clerk of the District Court, Canal Zone.

(Sgd.) E. M. GOOLSBY,
Clerk.

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Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,
vs. No. 199.
Guillermo Patterson, Defendant.

On this 8th day of November, A. D., 1921, comes attorney for the plaintiffs herein, and presents to the Court

a transcript of this case for approval, and the attorney for the defendant being present objects to the approval of the statement of testimony in this cause upon the following grounds, to-wit:

That in direct violation of General Equity Rule 75, counsel for the plaintiff has filed no praecipe in this Court; and has made no statement of the evidence lodging the same with the Clerk of the Court, as required by the second paragraph of General Equity Rule 75.

That application for approval has not been made upon ten days' notice to counsel, as required by law.

That at the time when said statement of evidence containing the entire evidence in question and answer form was presented to the Judge on five minutes' notice to counsel for defendant, counsel then and there stated he had objections to make to said testimony, and to the form thereof, and demanded ten days' time as required by General Rule No. 75, to file his objections.

That counsel, when said evidence was presented to said Judge for approval, as aforesaid, then and there objected that the evidence was not prepared in narrative form as required by General Equity Rule 75.

For all the foregoing reasons, counsel objects to the approval of the record by the District Judge of the Canal Zone, which objection is by said Judge overruled, and exception thereto reserved by Counsel.

Counsel for defendant requests that said objections and exceptions be made a part of the record in this cause and certified to the Circuit Court of Appeals, which is allowed by the said District Judge.

Whereupon the said Judge files the following order:

91 ORDER.

United States of America, Canal Zone.

Elisa Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz, A., Plaintiffs,

vs. Civil, No. 199.

Guillermo Patterson, Defendant.

The record in the above entitled cause is herewith approved, and ordered transmitted to the Circuit Court of Appeals for the Fifth Circuit, upon statement by Counsel for Appellants that the record must be transmitted forthwith.

CHARLES KERR,
United States District Judge.

Attest:

E. M. GOOLSBY,
(Seal) Clerk of the Court.

Ancon, Canal Zone, November 8, 1921.

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95 TESTIMONY.

United States of America.

United States District Court, in and for the Canal Zone, Balboa Division.

[Figure of Eagle.]

Elisia Arosemena de Diaz, Isabel Diaz de Jimenez, and Domingo Diaz A., Plaintiffs,

vs. Civil No. 199.

Guillermo Patterson, Defendant.

Ancon, Canal Zone, April 18, 1921.

Before:
Hon. John W. Hanan, United States District Judge.

Appearances:
Judge C. P. Fairman, for the Plaintiffs.

Todd & MacIntyre (Wm. C. MacIntyre and W. C. Todd), for the Defendant.

This cause coming on to be heard at a special session of the Balboa Division set for the hearing hereof, the plaintiffs being present in Court in person and by counsel, and the defendant, Guillermo Patterson, being present in Court by counsel, respective parties announce ready for trial; thereupon the plaintiffs introduce as witness in their behalf:

DOMINGO DIAZ, who having been first duly sworn according to law, is examined, and testified as follows:

Mr. MacIntyre:
I am going to object to the use of that map because that map is filled in with other lines.

The Court:
I can not consider this map until it is introduced in evidence.

96 Mr. MacIntyre:
I object to the plaintiff testifying and spreading the map out before the Judge, as this Court is acting both as a Court and jury in this case.

Judge Fairman:
It is impossible to proceed without this map.

Mr. Todd:
I understand the map according to the agreement would have been here if Mr. Diaz had not gone to Mr. Malsbury and—

Mr. Patterson, Jr:
The map was sent to me, but it was recalled by Mr. Malsbury on account of some other points which were to be put on the map at the request of Mr. Diaz.

Judge Fairman:
This map here will be practically the same thing as Mr. Malsbury will introduce.

The Court:
Your agreement covers what the map should cover, neither party can ask for interlineations; if the engineer

is told what to do by agreement of the parties,—that is all he can do.

Judge Fairman:
As far as I know that has been done.

The Court:
Yes, but your client went to him and had him do something that was not covered in the stipulation; if you folks wanted to do anything else, you could have done that in the evidence. Have you anything else you can proceed with in your preliminaries, Judge?

Judge Fairman:
Plaintiff then submits in evidence certified copy of the decree of the Supreme Court of Panama, which has been certified to by the Secretary of Foreign Relations of the Republic of Panama, and by John H. Smith, Acting Executive Secretary of The Panama Canal, in charge of the seal of the Government of the Canal Zone, in support of the plea of res judicata.

The Court:
Well, pass it over to the other side.

Judge Fairman:
(Hands document in question to Mr. MacIntyre).

Mr. MacIntyre:
We would have several objections to make to this, —both technical, and objections which go direct to the merits; technically, we object on the ground that it is submitted without a translated copy attached as required by the Code—

Judge Fairman:
The translation is attached.

Mr. MacIntyre:
The translation having been furnished, that objection is withdrawn. We object to it on the ground that it purports to be a judgment of the Supreme Court of Panama, and does not bear the signature of the presiding judge or magistrate of that Court, nor the secretary, but pretends to have the signature of the judge or secretary of some circuit Court of Panama. We object to its further introduction in support of the plea
97 of res judicata because that plea was ordered stricken on motion of the defendant being allowed by this Court. We further object to the decision of the Court of Panama because proper foundation has not been laid for the introduction of any such testimony.

Judge Fairman:
For the benefit of the Court I desire to state that decisions of the Sureme Court of Panama are certified to by the judge of the Court from which the decision was appealed; in other words, the case goes back to that Court, and that Court is the proper Court which certifies to this record.

The Court:
Supposing it does not comply with our law here?

Judge Fairman:
It is properly certified here.

Mr. MacIntyre:
Our law is as follows:

"Proof of Foreign Judicial Records:— A judicial record of a foreign country may be proved by the attestation of the clerk, with the seal of the Court annexed, if there be a clerk and seal, or of the legal keeper of the record, with the seal of his office annexed, if there be a seal, together with a certificate of the chief judge or presiding magistrate that the person making the attestation is the clerk of the Court, or legal keeper of the record, and, in either case, that the signature of such person is genuine and that the attestation is in due form. The signature of the chief judge or presiding magistrate must be authenticated by the certificate of a minister or ambassador, or a consul, vice-consul, or consular agent of the United States in such foreign country."

That being a purported judgment from the Supreme Court should be certified by the Supreme Court and not an inferior Court.

The Court:

Objection to the introduction will be sustained, and exception.

Judge Fairman:

The plaintiff saves its exception to the ruling of the Court, and offer to prove by means of this decree that all the rights and title of the defendant in this case to the lands of Lo de Caceres and land involved in this action, have been adjudicated by authority of the decision of the Supreme Court of Panama as to that portions of the land lying without the boundaries of the Canal Zone; and that the lands now in dispute form an integral part and are adjacent to the lands of Lo de Caceres lying without the Canal Zone, to which the rights of

the defendant had been adjudicated by the said Supreme Court of the Republic of Panama.

Direct Examination.

By Judge Fairman:

Q. Please state your name?

A. Domingo Diaz.

Q. Where do you reside?

A. Panama City; I Street, No. 28.

Q. You are one of the plaintiffs in this action?

A. Yes, sir.

Q. Who are the other plaintiffs?

A. My mother, Elisia Arosemena de Diaz; and my sister, Isabel Diaz de Jimenez.

Q. Where do they reside?

A. In the same house as I, I Street, No. 28.

Q. What is your father's name?

98 A. Gen. Domingo Diaz.

Q. Is he living?

A. He is dead.

Q. When did he die?

A. The 19th of December, 1912 in the City of New York.

Q. Was there any administration upon the estate of your father, General Domingo Diaz?

A. Yes.

Q. Where were these proceedings had?

A. In the Panama Court.

Q. Where was your father a resident at the time of his death?

A. He was coming from Europe to Panama, and died in the City of New York.

Q. What was his place of residence?

A. Panama.

Q. Have you any copies of the proceedings of the Court of Panama with respect to the administration upon the estate of your father?

A. Yes, they are here to-day.

Q. I exhibit to you here a copy in Spanish, certified by the Notary Public and various officials of the Republic of Panama, and referred to on page 222 of the original record in this case, wherein the matter was submitted to the United States Circuit Court of Appeals for the Fifth Circuit, at New Orleans, and ask you to state whether or not the facts contained in this document, and in a translation, relate to the property of your father; and whether or not is part of that property the real estate involved in this action is mentioned?

Mr. MacIntyre:

May it please Your Honor; if the attorney is going to introduce documents, the document will speak for itself, and I will object to the witness testifying as to the contents of the document.

The Court:

Objection is sustained on that ground, but he has not offered it in evidence.

Judge Fairman:

I am asking whether or not it refers to this property; that's all I'm asking.

The Court:

(To Witness) Does it refer to the property?

A. Yes, sir.

Judge Fairman:

In fact, I believe, if defendant would permit, it would save a little time if they would admit—(to counsel for

defendant): will you admit the plaintiffs in this case are the successors and legitimate heirs of General Domingo Diaz?

Mr. MacIntyre:
We don't know. We have denied it in our pleadings, —specifically denied it.

Judge Fairman:
(Continuing): This is a certified copy of the proceedings of the Court of Panama with respect to the succession of the heirs of your father?

A. Yes, sir.

99 Q. It has heretofore been introduced in evidence in the former trial of this case and appears upon page 222 of the former record.

The Court:
Let me ask you there; is not the evidence in the former case all going in? If it is that's all i...

Judge Fairman:
I think so; but I would like to make, as far as we can, a new record in this case.

The Court:
Yes, but is your old evidence all in? What's the use of going over it again if that's all in? You can save a lot of time that way.

Mr. MacIntyre:
May it please Your Honor; the Code says that in a new trial ordered by the Supreme Court, all evidence taken on the former trial which is competent and admissible, shall be used; that is mandatory without

retaking; but as to this particular paper, I deny its authenticity, its competency, and admissibility.

The Court:

It is up to the Court to pass upon everything that is competent and incompetent in the old evidence.

Mr. MacIntyre:

Yes, I understand that this case was to be tried on the old record, and the Court decide on the evidence which is competent and which is incompetent; that is the order of the Circuit Court of Appeals to this Court.

Judge Fairman:

Then under those circumstances we need no witnesses.

Mr. Todd:

That is my contention.

The Court:

Now, gentlemen, let me see where we are; the Court in making its findings in this case must find on the competent evidence; if he finds any facts on incompetent evidence, the finding is no good. I announced to both sides I expect both sides to submit to the Court what they claim to be findings of fact; now the Court will have to examine this evidence to determine who is right and who is wrong; and the Court will have to make its finding upon material and competent evidence; otherwise the Court would make an error in its findings. I expect both sides to submit a special findings to the Court for its consideration, and the Court will take its special findings and examine the records.

Mr. Todd:

Which is my view of the whole case since the beginning; there is nothing to do with this case other than

draw up special findings; under the decision of the Circuit Court of Appeals and our Code that is all we have to do. The Court can go over this record with the assistance we can give, and find its conclusion of law and fact.

The Court:

You are right part of the way; I think under these pleadings any additional testimony can be given by either side, but all competent testimony must be considered under your law here. I think both sides in this case ought to be permitted to get in new evidence material to this case.

100

Judge Fairman:

That is my opinion, Your Honor.

The Court:

Now, it will be up to this Court to finally determine what is competent and what is incompetent on the old testimony, and will also have to rule on the new testimony. If the Court finds any fact not sustained by competent evidence then that finding will have to be disregarded by the Court of Appeals. As long as either of you want to be objecting on the materiality of evidence and the competency of it,—you will have to object as you go along now.

Mr. MacIntyre:

I think it would be clearer if the pleadings had been read.

The Court:

It will be up to you people to object on either side if there is anything out of the issues not admissible.

Mr. MacIntyre:

We have specifically and particularly denied the authenticity and correctness of the translation of each and every one of the exhibits which are mentioned by the plaintiff as part of his cause.

The Court:

That will have to be fought out as you go along. Now it would occur to me that either side ought to introduce whatever evidence they think ought to be introduced in addition to what is already given, and then objections would have to be made and rulings on that evidence which is competent and material to the issues in this trial. Go ahead.

Judge Fairman:

On behalf of the plaintiff we submit in evidence as Exhibit No. 1, the certified copy of the inventory and succession to the estate of General Domingo Diaz, as heretofore appears in the record in this case at page 222 of the transcript filed in the United States Circuit Court of Appeals in the Fifth Circuit.

Mr. MacIntyre:

To which we object on the ground that it is certified to by the Alcalde and purports to be a judicial proceedings of the Third Circuit Court and is not certified by the clerk of that Court; it is certified by Tomas Herrera, G. Dutari, and Julio Arjona Q., and is not properly authenticated as required by Section 321 of our Code. We wish to object to the introduction and competency of defendant's exhibit now offered as Exhibit No. 1, recorded in the testimony as Exhibit "20", as not being properly authenticated. It is only authenticated by the mayor of the city, and purports to be a

record of the Third Judicial Court; it is not even authenticated by Mr.McIlvaine.

Judge Fairman:
It is authenticated by the Governor; it was introduced in the former trial in this case without objection.

101 The Court:
It looks to me like I would have to sustain the objection.

Judge Fairman:
In the former trial in this case the Notary brought this in; it does not require certification when the Notary brought it in.

The Court:
But they are objecting now, you have not done that; you are now offering the transcript. The objection will have to be sustained.

Judge Fairman:
To which we save our exception. (To witness). Mr. Diaz, who are the sole surviving and legitimate heirs of your father, Domingo Diaz?

Mr. MacIntyre:
To which we object on the ground that the only competent parties to determine the heirs under the laws of Panama is a Court of competent jurisdiction, and the witness is not competent to state who are the legal heirs of the said Domingo Diaz.

The Court:
That is a legal conclusion, but the witness can testify who his brothers and sisters are—

Judge Fairman:

There is only one sister,—the family consists of himself, his mother, and his sister.

The Court:

He can show who his mother was, and if she was living at the time of his death; we are trying the case here and not under the laws of Panama; now then, they would have to show that under the law the mother and brother and sister would have to inherit his land.

Mr. MacIntyre:

But there have been no probate proceedings in the Canal Zone.

Judge Fairman:

(Continuing) (To witness): What is the name of your mother?

A. Elisia Arosemena de Diaz.

Q. Is she alive?

A. Yes, sir.

Q. Was she the lawful wife of your father, Domingo Diaz?

A. Yes, sir.

Mr. MacIntyre:

That is a conclusion of the witness to which we object.

The Court:

I suppose technically it would be.

Judge Fairman:

(Continuing): What, if any, brothers or sisters have you?

A. One sister.
Q. What is her name?
A. Isabel Diaz de Jiminez.
Q. She alive?
A. Yes, sir.
Q. Are there any other brothers, sisters or heirs of Domingo Diaz alive?
A. No more.

Mr. MacIntyre:
We object to that, that's a conclusion.

The Court:
Yes; that is putting in too much; that is a conclusion.

Judge Fairman:
I am asking if there were any.

102 The Court:
You are asking a legal fact. If you will permit me to give you a suggestion; you might show whether he had any relatives or children dead leaving descendents.

Judge Fairman:
(Continuing): Are there any other children of General Domingo Diaz alive at the time than those which you have stated?
A. No, sir.
Q. Are there any other descendents of Domingo Diaz other than yourself and your sister alive at this time with rights to the estates?
A. No.

Mr. MacIntyre:
To which we object.

The Court:
Strike out that answer.

Judge Fairman:
I will ask you again who are the sole surviving legitimate heirs of General Domingo Diaz?

Mr. MacIntyre:
To which we object.

The Court:
Objection sustained.

Judge Fairman:
Exception to it.

The Court:
You are asking him a legal conclusion.

Judge Fairman:
(Continuing): State if you know, who are the legitimate children of General Domingo Diaz.

A. Isabel Diaz de Jimenez and Domingo Diaz—myself; my sister and I,—the only two children that exist of General Domingo Diaz.

Q. And the wife of Domingo Diaz is living at this time?

A. Yes sir; my mother.

Q. And what is her name?

A. Elisa Arosemena de Diaz.

Q. Now, Mr. Diaz, what is your age?

A. I will be forty-six years of age next June.

Mr. MacIntyre:
We move that that be stricken from the record on the ground that the question and answer are already in the record of the previous trial.

The Court:

Objection overruled.

Judge Fairman:

(Continuing): How long have you been living in the city of Panama?

A. All my life with the exception of yearly trips I have made to Europe, and about two years while I was in college in the United States.

The Court:

I don't suppose he has changed his residence,—you are asking about his residence?

Judge Fairman:

(Continues): How long have you been acquainted with the estate of Lo de Caceres?

Mr. MacIntyre:

To which we object.

Judge Fairman:

(To witness): Are you acquainted with the estate of Lo de Caceres?

A. Yes, sir.

Q. How long have you been acquainted with it?

103 A. Since very young,—since I was about seven years old; I used to go in the summer times to the residence in the Sabanas with my family; they—

The Court:

Just answer the question, and then stop.

Judge Fairman:

Are you acquainted with the various physical descriptions, roads, trails, hills, and other physical marks of the old estate of ancient title of Lo de Caceres?

A. Yes, sir.

Q. Are you familiar with the boundaries of that estate as indicated in the ancient titles?

A. Yes, sir.

Q. I will ask you to take this map and state to the Court the ancient title of Lo de Caceres as set forth in the Crown grant of 1736.

Mr. MacIntyre:

To which we object; if there is any such Crown grant it speaks for itself; second, we object to the witness testifying from that map which is not verified and introduced in evidence.

The Court:

Objection sustained. I could not consider this map if it is not in evidence. If he can state without the map.

Judge Fairman:

Can you state the boundary marks and lines of the old estate of Lo de Caceres?

Mr. MacIntyre:

To which we object as not being the best evidence, the attorney previously having stated there are certain title deeds in evidence.

Judge Fairman:

Then you object to Exhibit "A", attached to the original complaint filed herein?

Mr. MacIntyre:

We are not admitting anything.

The Court:

Well, I think we might as well stop until you get that map in evidence. It is no use trying to proceed unless you have your foundation.

Thereupon counsel for plaintiffs call as their witness:

OMAR EVERT MALSBURY, who being first duly sworn according to law, is examined and testified as follows:

Direct Examination.

By Judge Fairman:

Q. State your name, profession, and position.

A. O. E. Malsbury, Assistant Engineer, The Panama Canal.

Q. Your profession is that of Civil Engineer?

A. Yes, sir.

Q. How long have you been engaged in the exercise of that profession?

A. 16 years.

104 Q. Are you acquainted personally with the estates known as Lo de Caceres and Mata Redonda?

A. I am.

Q. Have you prepared a map of the estate of Lo de Caceres and the adjacent property?

A. I have.

Q. Have you that map with you in Court?

A. I have.

Q. Are you acquainted with the boundaries as indicated in the ancient title of Lo de Caceres?

A. I am familiar with the description of the boundaries, but I have been unable to follow them out; I can get some of the lines, but I have not been able to get all. Do you refer to the Crown grant of 1736?

Q. Yes.

A. Well, I have studied that over, and it is not entirely clear to me.

Q. I exhibit to you here a map and ask you to state whether or not this map was prepared under your supervision?

A. The basic map was.

Q. Can you verify the distances and directions stated upon the various lines in this map marked in the several colors?

A. I can.

Q. Are you acquainted with the controversy in this case with respect to the location of a spot or point called Mata Redonda or Pena Hueca?

A. Yes.

Q. Are you acquainted with the different localities which the respective parties to this action,—Mr. Patterson and Mr. Diaz,—maintain this point is located?

A. Yes.

Q. Referring to the point or spot marked on this map as "Chapel Ruins", is that point or place the Pena Hueca claimed by Mr. Diaz?

Mr. MacIntyre:

Before the witness answers, I would like to ask if that map which witness holds is a map which he himself prepared.

Judge Fairman:

He said he prepared the base map and can run the lines indicated on there.

Mr. MacIntyre:

That is the same map he prepared before. (To witness): Witness, is that map you hold in your hands prepared by yourself?

A. Yes, sir.

Q. Are there additions to that not put on by you?

A. Certain colored lines.

Q. Do you have with you the map which you did prepare yourself?

A. Yes.

Q. I will ask then that the witness testify from his own map.

The Court:

Yes, that is right; the objection will be sustained.

Judge Fairman:

(Continuing): This is the map which you prepared yourself?

A. Yes.

Q. On and the map the various distances and directions of various points are indicated?

105 A. Yes.

Q. And that map, with the exception of the additional lines, is the same base map as this map? (indicating).

A. It is.

Q. We wish to have this marked as Exhibits 2 and 3.

Mr. Todd:

We object to that first map.

The Court:

Judge, try to authenticate one map, and then try the next one; you have laid no foundation for the introduction of any map.

Judge Fairman:

He has identified the map.

The Court:

That is not sufficient foundation for its introduction in evidence.

Judge Fairman:

Mr. Malsbury, this map,—Exhibit 2,—of the estates of Lo de Caceres and Mata Redonda,—this is a map of those estates?

A. Yes.

Q. That map,—Exhibit 2,—was prepared by yourself?

A. Under my direction.

Q. And you, of your own knowledge, know that the various lines, directions, and distances contained in that map are correct?

A. I do.

Q. And this is a map purporting to represent the estates of Lo de Caceres and Mata Redonda, together with reference to the adjoiiing estate of San Jose and part of La Gloria?

A. Yes, that is correct.

Mr. MacIntyre:

We still object that the proper foundation has not been laid to the introduction of the map.

Judge Fairman:

Is this map you prepared pursuant to the stipulation entered into between plaintiff and defendant in this action?

A. It is so far as I went; I have not finished all that is required.

Q. So far as you have gone, this is a map prepared in pursuance to the stipulation of this Court?
A. Yes.

Mr. MacIntyre:
We still object that the proper foundation has not been made.

Judge Fairman:
We submit it in evidence.

The Court:
There are still some technical grounds, Judge. Cross-examine him on it.

Judge Fairman:
We are now submitting the map.

Mr. MacIntyre:
We object to the introduction of the map,—the proper foundation has not been laid according to the rules and laws of evidence for the introduction of that map.

Judge Fairman:
He testified it was made in accordance with the stipulation and orders of the Court.

The Court:
The only trouble is he testified it is not complete according to the argeement; I guess you will
106 have to go a little further, Judge, with your foundation.

Judge Fairman:
—I may be dense,—and not know the rules—

The Court:

The trouble is you shorten your work a little too much, assuming it is all right and do not make the technical proof over the objections.

Judge Fairman:

This was a witness called by the defense in a previous action, I am simply trying to get before this Court for its understanding,—and understanding of all of us, —some proposition to have to deal with in a concrete form.

The Court:

Yes; but can't you go on with this map to show what is correct and what is incorrect; he says it is not complete yet; show how much he has completed according to the agreement made.

Judge Fairman:

Well, I will get at this in another form.

Q. (To witness): Mr. Malsbury, you have stated that this map which we have designated as Exhibit 2, is identical in its base form with the map which I now exhibit to you containing these various colored lines—

Mr. MacIntyre:

(Interrupting): We object to counsel exhibiting the map to the witness.

The Court:

The two things are not in evidence; the objection is sustained.

Judge Fairman:

We submit that map in evidence.

The Court:
Do you want a ruling on it?

Judge Fairman:
I would like to have a rule.

The Court:
If you want a rule on it, I will give it to you, but we would like to have the map in evidence. Your witness says he has not completed the map according to the agreement; I suggest you have him indicate such pasts of it as are accurate and complete according to the argument; then those pasts can go in.

Judge Fairman:
(To witness): Major, I will ask you to indicate upon that map such parts or portions—(To the Court): It is not in evidence, how can he indicate on something that is not in evidence? (Continues, to witness): What part of that map has been completed and what part has not been completed under the agreement?

A. It is all completed, except showing the boundary lines of Lo de Caceres in accordance with the Crown grant in 1736, and that has not been shown because I have not been able to show it from the description; I would need help; I mean this: those who claim the land now—the particular streams mentioned in the description, if they will be pointed out, I will connect it up and show the boundary lines.

107 Mr. MacIntyre:
I would like the Reporter also to note the witness is reading from the record of a previous trial.

The Court:
(To witness): Just explain in a general way.

Witness:

(Indicating) Which is the description here? (Continues) I will show you what I mean.

The Court:

Better read the question to the witness.

Reporter:

What part of that map has been completed and what part has not been completed under the agreement?

Witness:

It has all been completed except the boundary line of the estate of Lo de Caceres as claimed by Mr. Diaz in the Crown grant of 1736; the boundary lines in accordance with that description have not been shown, because they are not quite clear to me.

The Court:

That answers the question.

Judge Fairman:

(Continuing): Now, Major, could you prepare or finish those lines upon that map if you were shown the particular points or places which the ancient deed of 1736 indicates?

A. I could.

The Court:

The witness testified to the map being correct with the exception of one line that is in dispute; is there any other point that he has not completed according to the agreement? You might ask him that question to see whether or not everything has been completed with the exception of the one line in dispute. (To

witness): Have you made this map according to the agreement furnished you, with the exception of the one line?

A. I have; but the line I refer to is a continuous line,—it is the complete line of Lo de Caceres.

Mr. MacIntyre:

Might I ask the witness if that map as prepared shows all the boundaries and all points and land within the Canal Zone in dispute?

A. It does in accordance with the description of the Mata Redonda estate.

Judge Fairman:

But it does not with the description of the Lo de Caceres?

A. Not in accordance with this particular description I am referring to.

Q. Major, you could, by personal inspection, take the map which you have already prepared, and thereafter indicate on that by proper lines all the points in dispute in this case, if indicated to you on the ground by the parties?

A. Oh, yes.

Q. May it please Your Honor, it seems to me in view of the fact that this map is essential in this Court to determine—and the parties at interest,—I would ask that Major Malsbury be appointed a commission by this Court to go over the lines, and thereupon being shown the respective point in dispute, to indi-
108 cate on this map all the matters which are in dispute,—I think that would be the best thing for all of us.

The Court:

It seems just the one boundary line seems to be in trouble—

Mr. MacIntyre:

That is the question which this Court has to finally find out, and with a map which shows every prominent feature, every creek, and every mountain is there shown, and which will be in evidence; now, this is for the Court; and after the Court decides as to what point the line goes, to draw that line itself.

The Court:

If I had a map drawn of the contentions of the parties for that line, then I could find from the evidence a good deal better than I could if I had no such lines drawn.

Mr. MacIntyre:

That could easily be down by witnesses as they testify; for instance, if one witness (indicating on map in possession of witness), if one witness says: "This is Sonsonate hill, and my line runs from here to Mocambo", and another witness says "This is my line from here to Mocambo",—it is clear that with the lines shown the Court can determine where the line should be.

The Court:

If you agree on the two contentions, and have the line marked of the bounds, I can do it that way; it does not need to be in evidence.

Judge Fairman:

I have such a map here, wherein the various deeds of the various plaintiffs claim according to their interpretation.

The Court:

The map is not in evidence,—if you folks say this map shows both of your contentions it can—

Mr. MacIntyre:
(Interrupting): I would state that the map which Major Malsbury holds, contains every cardinal point, and all starting points from which lines are drawn, and the evidence will establish the bearing of each.

The Court:
I think it should be introduced for what it is worth.

Witness:
This map may not show every little hill, or quebrada; but I can put them on, if Mr. Diaz will just tell me which quebrada is meant; I have a map of all that country.

The Court:
Here is the trouble, if Mr. Diaz would show you what he contends the points are, that is his theory; and Mr. Patterson has an entirely different theory. But I think the map should go in for what it is worth, and I am going to admit it; here you have a map that is correct up to one point. Show this map is admitted in evidence, and to be used in evidence so far as witness has testified to its correctness, and the lines, land marks, etc. Now, you can testify from this map so far as you want to go.

109 Judge Fairman:
I have no further questions to ask this witness at this time.

The Court:
You got this map in evidence, but so far it amounts to very little.

Judge Fairman:
One more question.

The Court:
I would suggest that you have this witness trace his lines and land marks, and indicate to the Court what it is, if I am going out to view the estates I want to apply the evidence properly.

Judge Fairman:
(To witness): Major, the map which is introduced in evidence as Exhibit 2, and the map which I present here (indicating) are basicly the same map?
A. They are.

Mr. MacIntyre:
To which we object again.

The Court:
The objection will be sustained.

Judge Fairman:
That he cannot answer that question? I am comparing the map in the record,—Exhibit 2,—with the map which I presented to you (Mr. MacIntyre) now.

Mr. MacIntyre:
How did we know what it; we objected to it.

Judge Fairman:
(To witness) Who drew that map, Mr. Malsbury?
A. I did.

The Court:
You are showing him "a map",—suppose you have a dozen more maps here.

Judge Fairman:

I will have it marked Exhibit 3. (Continuing, addressing witness): Referring to Exhibit 3, I will ask you to state whether or not that is your signature?

A. It is.

Q. This Exhibit 3 was prepared under your supervision and control?

A. The blue print was .

The Court:

What do you mean by "blue print"?

A. The base map.

Judge Fairman:

I am simply laying the foundation to put it in evidence later on.

Mr. MacIntyre:

And I am laying the bomb to blow it up later on. (To witness): Mr. Malsbury, does that map contain any alterations, lines, or other drawings not made by yourself over your signature?

A. Yes, sir.

Judge Fairman:

Are the lines which you show here, (indicating map), and not drawn over your supervision and direction; are these lines correct?

Mr. Todd:

To which we object.

Witness:

(Answering): I could not very well answer off hand.

The Court:

I don't suppose he could if he did not draw them himself.

Judge Fairman:

(Continuing): Do you know Mr. Raggi?

A. Yes.

Q. What position does he occupy with The
110 Panama Canal?

A. He is connected with the Law Department.

Q. What are his duties, if you know?

A. Making maps is one of them.

Q. Know anything about his ability as a map maker?

A. Yes.

Q. What is it?

A. Good.

Mr. Todd:

I don't think this is competent evidence at this time:—we have not attacked that man's ability as a map maker.

Mr. MacIntyre:

(To witness): You are the Omar Everet Malsbury who testified in the former trial of this case, and whose testimony is recorded in the record from pages 232 to 245 of the original record?

A. I am.

Q. I would ask you, Major, the map which has been introduced by plaintiff as Exhibit 2, is that the same map which you prepared and introduced in this case, and was introduced as defendant's Exhibit "A" in the previous trial?

A. The base map is the same, but it has been revised some since then.

Q. In what respect has the map been revised?

A. Certain trails, locations of old buildings, and some streams and hills have been shown in addition.

Q. Then the map has not been changed or altered, but some additional points have been indicated thereon?

A. That is true.

Q. And, Major, you yourself were on that property?

A. Yes.

Q. In charge of the surveying parties?

A. Yes.

Q. You kept your field books?

A. Yes.

Q. And that map is made from the field books, and under your supervision in the actual survey of the work?

A. Yes.

Q. And all points so indicated were secured from survey?

A. It is all from survey,—mostly my own.

Q. And the map itself is an official map of The Panama Canal?

A. Yes.

Q. Without the designations?

A. Those designations are official too; I did the work on my own time, but put them on this map, and they are the property of The Panama Canal as it is.

The Court:

This is new evidence?

Judge Fairman:

Yes. (Continuing, addressing witness): Are you acquainted with the signature of Judge Feuille and Governor Harding?

A. I am.

Q. I exhibit to you here a blue print, and ask you to state whether or not the signature attached to that are those of Judge Frank Feuille, Special Counsel, and Col. Chester Harding, Governor?

A. To the best of my knowledge, they are.

Q. That is all.

111 Mr. MacIntyre:

Do you know, Mr. Malsbury, whether General Chester Harding or Mr. Feuille were surveyors?

A. The Judge was a surveyor.

Q. Was he also a map maker?

A. No.

Q. Was General Harding a map maker?

A. Yes, the General could make maps; he was a Civil Engineer.

Q. Do you know whether or not Mr. Feuille and General Harding made the map which has just been shown you?

A. No, they did not make it.

Q. They did not make it?

A. No.

Judge Fairman:

No further questions.

By Mr. MacIntyre:

Q. Major, referring to the map which has just been put in evidence and identified by yourself,—plaintiff's exhibit 2,—I will show you on that map a yellow line running from a hill called Mocambo to a spot without a particular designation, and ask you what does that line represent?

A. A straight line from Mocambo hill to a point claimed in Mata Redonda by Mr. Diaz.

Q. At whose direction did you draw that line?

A. At the request of Mr. Diaz.

Q. You do not know whether or not that line is a boundary of Lo de Caceres?

A. No, I do not know yet.

Q. Speaking of the same map, I will call your attention to a line,—a yellow line,—drawn from an arrow at a point indicated on the map as Paso Real, to the junction of the Palangana and Platanar Rivers—

A. (Interrupting) That's a straight line between the junction of the two Rivers and Paso Real.

Q. (Continuing):—by whose direction did you put that line?

A. At the request of Mr. Diaz.

Q. Does that have anything to do so far as you know with the titles to Lo de Caceres?

A. It has something to do with the titles, but I have not been able to connect the whole thing up.

Q. You don't know whether or not that yellow line (indicating on map) is the correct boundary line of any of the matters now in dispute?

A. No.

Q. Now do you know if a line extending from the summit of Mocambo to Mata Redonda, indicated by Mr. Diaz, is the correct boundary line?

A. No.

112 By Judge Fairman:

Q. Are you acquainted with a particular spot indicated on this map (exhibit 2), indicated as "Chapel Ruins"?

A. Yes.

Q. Are you acquainted with a large rock located where you have this yellow point on this map?

A. Yes.

By Mr. MacIntyre:

As to Mr. Malsbury's testimony as to that rock; we would move that no testimony be heard as Mr. Malsbury has already testified in full what he knows, and he is not now giving any additional testimony; his testimony concerning that rock, where it is, its condition, and the location of it, appears on pages 235 of the testimony.

The Court:

He may want to correct that testimony.

Judge Fairman:

(Continuing): Do you know what that particular rock and place is called?

A. I know what it is called by Mr. Diaz.

Q. What does Mr. Diaz call it?

A. Pena Hueca.

Q. Is a line drawn from this pont to Mocambo a direct line if this is the Pena Hueca?

A. It is.

Q. And the direction and distances of this line as you have indicated here are correct?

A. I have not marked the distance and direction of that line on that.

Q. But you can put that on the map?

A. I can.

Q. Are you acquainted with another spot? (indicating on map a point where there appears the words "La Pena Hueca or Mata Redonda".)

A. Yes.

Q. Who told you that that was the Pena Hueca or Mata Redonda?

Mr. MacIntyre:

To which we object; Mr. Malsbury having testified in full as to all these maps.

The Court:
That question is objectionable.

Judge Fairman:
How did you become acquainted with that spot by that name?

Mr. MacIntyre:
To which we object on the ground that the attorney is attempting to introduce testimony already recorded.

The Court:
That is admissible in evidence, if he has another explanation to make he has a right to explain it.

Mr. MacIntyre:
Here's Mr. Malsbury's former testimony. (Indicating record).

The Court:
Now, Mr. MacIntyre you have got that and can discuss that in your report as to whether he changed his testimony.

Mr. MacIntyre:
He will not change, but—

The Court:
But I can limit either side here on a particular point testified to before.

113 Judge Fairman:
How did you become acquainted with that spot by that name, referring to the spot Mata Redonda?
A. In making the survey we got all the information we could from the people living on these estates; that

point was indicated to our surveying parties by the people living there as the Pena Hueca, and my surveying parties found it, and that it came up to the description.

Q. So, upon information of parties living in this vicinity and Mr. Patterson, you located this point at this particular place?

A. I did.

Q. That is all.

By Mr. MacIntyre:

Q. What Mr. Patterson was it?

A. I think a Francisco Patterson.

Q. It was not the plaintiff who gave you the information?

A. No, not as I understand it; this information, as you understand, was given to my parties in the field; I have been there myself, but it was located from information given to my field parties.

The Court:

Is that all from this witness?

Judge Fairman:

That is all Your Honor. The plaintiff at this point, wishes to introduce in evidence as exhibits A and B, attached to the original complaint, and contained in the record of this cause commencing at pages 9 to 24, and at page 25 to 28; the same being: first, the record of the Spanish Crown grant of 1736; and second, the deed of Pedro Miro in favor of Jose Garcia de Parades, dated October 11, 1832.

(Witness retires.)

(Adjournment until 1:30 p. m.)

(Court resumes session at 1:30 p. m., and examination of Domingo Diaz A., is now recalled and his examination continued).

DOMINGO DIAZ A., (Continued):

By Judge Fairman:

Q. Mr. Diaz, as one of the plaintiffs in this cause of action are you familiar with the various deeds and documents which represent the titles to the lands and estate of Lo de Caceres?

A. Yes, Doctor.

Q. I exhibit to you here a notarial document of the First Circuit of Panama, No. 24, dated January 23, 1899; said document being certified by the Minister of Foreign Relations and the Executive Secretary of the Canal Zone; and ask you to state what that

114 document is?

A. This document is the land grant of Lo de Caceres, protocolized by the Bishop of Panama, by Notary Public Number One.

Q. This is the document of title which was introduced at the former trial of this action?

A. Yes, Doctor.

Q. And attached to your petition as exhibit "A"?

A. Yes, Doctor.

Q. We wish to offer the original document in evidence, together with the translation as set forth in the transcript of this record in the United States Circuit Court of Appeals, on pages 9 to 24, inclusive.

Mr. MacIntyre:

To which we object, on the ground that that translation is not a true translation of the document.

Judge Fairman:

Then, if Your Honor please, pursuant to Section 83 of the Code of Civil Procedure, we herewith tender the document in evidence together with fees for an official translation to certify to this translation. In other words, we will ask Mr. Sheibley to compare this translation at this time.

Mr. MacIntyre:

I might save that expense for the other parties; there is only one particular page that is mis-translated; we will admit all of the rest of that.

Judge Fairman:

If you can show the incorrect translation, we are perfectly willing to submit it to the official translator and have such changes made as the translator may decide are correct.

Mr. MacIntyre:

On page—on the reverse of page 6 of this document, the words in Spanish are as follows: "y desde alli hasta Mocambo (sic) quebaja la misma linea hasta la cabecera do rio Hondo quedando dento la qubrada que llaman de casteneda," which they have translated as being "and from there to Mocambo, then the line descends to the source of the Rio Hondo" etc., when, as a matter of fact, it says: "and from here to Mocambo going back on the same line",—"quebaja la misma linea",—that is the correct translation of it, and not as it appears of record.

The Court:

That is something I cannot decide; turn it over to Mr. Sheibley.

Judge Fairman:

(To counsel for Defendant): Will you indicate to Mr. Sheibley, and I will ask him to translate both before and after that in order to get the correct composition.

(Mr. MacIntyre indicates to Official Translator as requested).

That same error appears in three different parts of this document,—page 10, 20, and 23 of the record, where it is mis-translated. (Explaining to the Court on a map the differences in the two translations.)

The Court:

Let the Official Translator look it over and see what he says; if it is wrong at three places then you will have to have it corrected at each place. Anything else you can go to while he examines that?

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Judge Fairman:

I am now putting in my documents of title.

Official Translator:

I take the translation here in Spanish to be: "and from here to Mocambo, which goes down to the same line or source of the River Hondo",—"which goes down to the same line of the headwaters of the River Hondo."

The Court:

Does that correspond to your interpretation of it?

Mr. MacIntyre:

Yes, sir; it cannot mean anything else.

The Court:

Are you willing to have it corrected without being re-certified?

Mr. MacIntyre:

It appears three times; that's the reason we particularly and specially deny this translation as being correct; I do not know how the record would appear if it goes up to the Court again; it has got to be shown this was an incorrect translation.

Judge Fairman:

We prefer, under the circumstances, to make a new translation of the entire document; then there would be no question about it; I think that it would be better for the Court and all the parties.

The Court:

It is unfortunate these things were not done before.

Mr. MacIntyre:

As far as the defendant is concerned, he would agree that the Official Translator only make a translation of the three places where the objected phrase appears, which is at page 10, 20, and 23 of the record, which words in English in the record are as follows: "a straight ne up to Sonsonate Hill and that of Gallinazos, and from there to Mocambo, then the line descends to the source of the Rio Hondo, remaining inside or rather including the brook called Castaneda."

(Conference between Mr. MacIntyre, Mr. Todd, and the Official Translator, Mr. Sheibley).

The Court:

Mr. MacIntyre suggests that they are willing to agree to; what do you say now?

Judge Fairman:

We are willing to agree that the Official Interpreter shall insert in the record the description contained in this document in accordance with his translation of it; I would suggest that he start from where the description of the property starts, and put all the description in; I think it is better for all purposes.

The Court:

Do the other side agree to that?

Mr. MacIntyre:

Just so it is right; we will agree to whatever is correct.

Judge Fairman:

I think it would be better for the Official Interpreter to furnish the full description.

116 Mr. MacIntyre:

Start from "en esta lada", etc.,—then if he translates the entire description of the property, then he gets it all right.

The Court:

I would suggest that he translate the entire description, and then submit it here, and then if it is agreed on it goes into the record; but there may be some objections, and if so, you want to fight them out.

Judge Fairman:

Very well.

Mr. MacIntyre:

Then as I understand it, this document will not be admitted until the correct translation is amended.

The Court:

If it is admitted, it will be admitted with the correction.

Judge Fairman:

I want to submit it as my exhibit "A",— this is the source of my title.

The Court:

(To Mr. MacIntyre): Do you agree to have that submitted that the correct translation shall go into the record?

Mr. MacIntyre:

Yes, Your Honor.

Judge Fairman:

We now offer this as Exhibit "A."

The Court:

And it may be admitted with the agreement and condition that when the translator correctly translates the description, that his corrected translation shall supercede the description of the real estate in the Exhibit and be the description instead of the one now in the Exhibit.

(Exhibit "A" admitted).

Judge Fairman:

Mr. Diaz, I exhibit to you here a document referred to in the petition herein as Exhibit "B", and ask you to state whether or not that is a document of title to the estate of Lo de Caceres?

A. Yes, Doctor; this is the deed from Pedro Miro to Jose Garcia de Paredes.

Q. We will submit it in evidence, together with the translation as set forth in the Transcript of Record from pages 25, 26, 27 and 28.

Mr. MacIntyre:

To which we object, on the ground that the translation is not a true translation; there is an entire page of this Exhibit which is not translated at all; no attempt is made to translate the first page of it; and the first page has an important bearing on the rest of it. We further object on the ground that the plaintiff is now trying to prove a chain of title, and he is introducing a purported deed of Miro; his last title being the deed made to Caceres in 1735, and the plaintiff has failed to show any connecting link, or chain of title, between Caceres and Miro;—there is a break from 1735 to 1832.

Judge Fairman:

We submit it in evidence.

The Court:

Is that statement he makes true,—that that chain is broken and no title running down through that?

117 Judge Fairman:

If Your Honor please, that is impossible; I am simply introducing the first document to show the boundaries of the original estate; whatever happened to Lo de Caceres I do not know, but the next evidence we have of a title to that land is set forth in this document which I now present, that is in 1832. The various transfers, if any, that took place between 1735 and 1832—

Mr. Todd:

(Interrupting): That is not the proper way for a deraignment of title; the first paper put in was a source of title, and we would like to know whether it was put in for the description or the source of title.

The Court:

The instrument will speak for itself.

Judge Fairman:

I find here a document which may explain this matter. I wish at this time to withdraw all questions pertaining to Exhibit "B" and strike that matter out.

The Court:

That may be stricken.

Judge Fairman:

I exhibit to you here a document, Mr. Diaz, and ask you to state in what respect that pertains to the estate of Lo de Caceres?

Mr. MacIntyre:

To which we object as calling for a conclusion on his part.

Judge Fairman:

What is that document?

A. The Crown grant—the transmission of property; first, we have over here—

The Court:

You don't need to tell that; the document speaks for itself; is it a deed?

A. It is a certified copy of the transmission of title.

Judge Fairman:

It is a certified copy of transmission of title. This document has been certified by the Secretary of Treasury and of Foreign Relations, and the Executive Secretary of the Canal Zone; and we tender it now in evidence, together with the necessary fees for its translation.

The Court:

Why didn't you have these all translated before you came into Court?

Judge Fairman:

I didn't know about this document, and my client didn't let me become aware of it.

Mr. MacIntyre:

Of course, I can read it in Spanish; but it is not good in Court unless it is translated, and our Code requires that all documents be translated. (Examines document). We have objections to make to this; this is a statement made by a notary public stating how he believes this property went down.

The Court:

If that is all it is, it would not be very competent in this case.

Judge Fairman:

We simply submit it for what it is worth; I am not attempting to establish title by this; it is for the information of the Court. If the document has no legal effect as an evidence of title, then it is not admissible.

118 The Court:

They are objecting to its admission; and if you tender the fees and ask for translation—

Judge Fairman:

I tender the fees under Section 83, (reading): "All documents and exhibits of whatever character and kind shall be furnished to the Court with a translated copy, if in Spanish; or, in case they do not so furnish them, the party offering the same shall deposit a fund sufficient to have them translated from Spanish into English.

Mr. MacIntyre:

We cannot make our objections until it is translated, because we are working in English.

The Court:

It will have to be translated then.

Judge Fairman:

I submit it to the official translator, and tender fees for its translation. (To witness): Now, Mr. Diaz, I exhibit to you here a document designated as Exhibit B, attached to your petition herein, and ask you to state whether or not that is one of the documents of title to the estate of Lo de Caceres?

A. Yes, sir.

Q. What's the date of that?

A. This is a conveyance from Pedro Miro to Jose Garcia de Paredes in the year 1832.

Q. We tender Exhibit B in evidence, together with translation as set forth on pages 25, 26, 27 and 28 of the transcript of the record in the United States Circuit Court of Appeals in the former trial of this case.

Mr. MacIntyre:

To which we object on the ground that the very first page of this document, which is very important, has

not been shown translated in that translation, or in any other translation; we further object because this is a sale from one Pedro Miro to some other party, and no evidence has yet been introduced to show that Pedro Miro was ever the owner of said land.

Judge Fairman:

We tender the document in evidence, and fees to cover the translation of any portions of the document which might be missing. That's a certificate of the payment of taxes.

Mr. MacIntyre:

That certificate says it was not registered until 1894, the instrument was dated 1832.

Judge Fairman:

(Hands document to Dr. Arias, Assistant Counsel, who attempts to remove certificate from the Exhibit).

Mr. MacIntyre:

We object to that certificate being taken out, because it is in evidence taken in the former trial and should not be removed.

The Court:

Have it translated, and then they can make their objections. Submit all to the official translator to be translated.

119 Judge Fairman:

Mr. Diaz, I exhibit to you here a document, dated the 30th of April, 1831, and ask you to state whether or not that refers to the title of the estate of Lo de Caceres?

The Court:
You want to mark it "exhibit" first.

Judge Fairman:
It looks like I got the cart before the horse. (Examines document again.) I didn't know about this before now.

The Court:
You seem to be up against a conglomeration of stuff, —and it's a clear thing that your client has not turned it all over to you so that you would know about it,— it puts you in a very awkward position here with matter that is only partly translated.

Judge Fairman:
This is the translation (indicating), and (examining same) it is all properly certified under the rules so as to make it admissible. I will ask to have it marked Exhibit A-2.

Mr. Todd:
We are going to object to all these new exhibits, because there is no allegation in his petition, and reply; and in order to get them in, he should ask for an amendment, and let us read them.

Judge Fairman:
We submit in evidence the deed from Senora Francisco Davila to Mariano Arosemena, together with translation thereof, being Plaintiffs' exhibit A-2.

Mr. MacIntyre:
We will object to the introduction of A-2 on the following ground: the plaintiffs in this case are making deraignment of title,—or attempt to deraign his title;

he has pleaded in an action which is properly in or ejectment. The document now presented is a purported link in his chain of title from one Francisca Davila to Mariano Arosemena, and it was not mentioned in his complaint, or listed as an exhibit, and we have no method of knowing who is, or who was, Francisca Davila, or who is, or who was, Mariano Arosemena; nor has any reference been made heretofore to this exhibit.

The Court:
What are they trying to recover on?

Mr. MacIntyre:
On a straight chain of title from the Crown grant.

Judge Fairman:
I have got to make certain connecting links wherein Miro in the deed of 1830 acquired his title; and in that regard we find here in the Code of Civil Procedure that was called "disputable presumption". Here's a paper that is more than thirty years of age, and comes under Section 32 of Article 350, we are introducing a notarial document.

Mr. MacIntyre:
And we would state in answer to that; this document says it was made in November, 1920, and therefore it is not thirty years old, and it is not an ancient document; and we would state further it is part of a chain of documents, they have had this since November, 1920, and this is the first time we have been appraised of it, or had it exhibited to us at any time.

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The Court:
Ancient documents are admissible if they are properly—

Judge Fairman:

This is only the copy made in 1920.

The Court:

Have you got the original document? And if it is an ancient document, then lay the foundation of your ancient document. Let me see it. (Examines document). What is a "notarial" document?

Judge Fairman:

It is an original document; the notarial documents are official certified copies; we cannot get the original official copies as they never go out of the office.

The Court:

Have you any law in regard to the admission of this document?

Judge Fairman:

Section 331. (Reads same).

"Sec. 331. Proof of Public Record of Private Writing. An authorized public record of a private writing may be proved by the original record, or by a copy thereof, certified by the legal keeper of the record."

Mr. MacIntyre:

We do not object on that ground; we object on the ground that plaintiff has pleaded a chain of title on which we have joined issue; in the complaint the plaintiff has set up the various titles forming his chain and upon which he relies for this present action, with which we have joined issue. The instrument now present—purporting to be a deed or part of the chain of title—was not set up on the complaint or referred to, and the defendant has been given no chance to answer

the same, and it is therefore incompetent in this case as testimony.

The Court:

Let's see; he sets up a chain of record title; now then, he cannot sue on one theory of title and recover under another, but that is not quite the proposition; if he has title to this land and it is unbroken then the entire record title can be shown, introducing one deed at a time, showing the chain of title; but over your objection that you are specifically putting in a deed not set forth in your complaint, he has not got the right to introduce it—

Judge Fairman:

(Interrupting) Not as a link in the chain of title,—but as corroborative evidence of the ownership of Pedro Miro. I'll read it for the information of the Court. (Reads the translation of A-2).

The Court:

What has that got to do with this case? I want to get the—

Mr. MacIntyre:

All I can get out of it is that the Holy Ghost and the Virgin Mary had a lien on the property.

121 Judge Fairman:

I want to show this property was sold to Mariano Arosemena, and Mariano Arosemena sold to Miro.

The Court:

You claim that is one of your links?

Judge Fairman:

That is one of my links, and vindicative of Miro's title; I expect to show that Arosemena sold to Miro.

Mr. MacIntyre:

Then we claim it should have been set up as part of the petition. You must begin with the foundation and plead every conveyance, and you must put that in your pleading; you cannot introduce any proof of title outside that chain; there is no showing that Francisca Davila was ever the owner. And, again, we wish to state—but this paper itself says it was made for Mr. Diaz in November, 1920; now, he had lots of time to have properly set this up, because he was ordered to answer by February,—during all of which time Mr. Diaz had these papers in his possession.

Mr. Todd:

In deraignment of title in real estate,—in removing cloud, or what not, the chain of title is no stronger than its weakest link,—this link is very weak. Then, we have not been appraised of this fact.

The Court:

I agree with you about the theory of chain of title; but that is not the question the Court has to decide now; here's the question: whether this is a link that ought to go in; if the link or chain is broken, he could not recover on a record title.

Judge Fairman:

If the Court thinks it proper, and I believe it would be, I simply ask to amend the sixth paragraph of my petition, and insert in that the public document of April, 1831, and the 20th of November, 1832.

The Court:

Here's the trouble with you, you have had these pleadings on file and they had no knowledge of it, or know nothing about it, and you have not pleaded it, and they have no opportunity of meeting it. Your client has had years in this matter to get his chain of title and plead, and you have had months and months to file an amended complaint, and it is unfair to the other side to do this.

Judge Fairman:

They have gone no further than to deny everything.

The Court:

You are injecting in your complaint,—or propose to, —a different thing entirely than they have had any knowledge of at all. I believe I will admit this document in evidence for what it is worth, but it is very bad practice to try a case like that,—no man could ever win a case in that way.

Judge Fairman:

I believe that under the circumstances the documents now introduced are more for the purpose of
122 showing that there was an estate of Lo de Caceres at same time.

The Court:

I will admit it in evidence.

Mr. MacIntyre:

Exception to this.

The Court:

But if you continue like this, Judge, you are in a bad position, I think.

Judge Fairman:

I have only one other document that comes under the present objections.

(A-2 admitted in evidence).

Q. (Continuing): Mr. Diaz, I exhibit to you here a notarial copy of a public document, dated September 25, 1832, and ask you to state what that document is,—Plaintiffs' Exhibit A-3?

A. This is a document of conveyance from Pedro Miro, as owner of the Ascienda La de Caceres to Mata Redonda for a thousand pesos; it is a transfer of a mortgage.

The Court:

What is that?

Judge Fairman:

It is a transfer of a mortgage.

Mr. MacIntyre:

We are going to object to this, may it please Your Honor; first of all, it is not properly authenticated, this is a document of a lot of loose leaves, one of them,—here,—is a loose leaf not attached to anything and contains the certificate of Mr. Marales, and the Secretary of Foreign Relations, and here's another loose leaf with the certificate of the Executive Secretary of the Canal Zone, absolutely loose.

The Court:

Does it refer to one another?

Judge Fairman:

It is a certificate of Alfonso Fabrega, and that's the main thing.

The Court:

(Examining loose sheets) This man here says it is his signature—

Judge Fairman:

(Interrupting) The fact that it is loose,—I took the clip from it.

The Court:

Make your proof whether they are all the same.

Judge Fairman:

Mr. Diaz, I wish you would tell the Court exactly how you obtained this document, and how those certificates and other matters were placed on there and given to you.

A. This document is a copy given to me by Notary Number One, over the signature of Alfonso Fabrega; and I went to the office of the Secretary of Finance, and he certified that the signature of the Notary Public is correct. Then I went to the Secretary of Foreign Relations, and the Sub Secretary certified that the signature of Mr. Marales is correct; and I went to Balboa Heights and Mr. Smith certified that he was
123 in charge of the seal of the Canal Zone, and that Mr. Marales is and was the duly appointed Sub Secretary of Foreign Relations of the Government of Panama, and this is his signature to it.

The Court:

Were these three separate loose sheets on Exhibit A-3 the instrument which you had thus secured and thus had certified,— are they the identical sheets that composed Exhibit A-3 when you secured them, and had them certified?

A. Yes, Your Honor.

Q. I think the proof is sufficient to show that the instrument is the same instrument.

Judge Fairman:

The translation is attached to it. We submit it in evidence.

The Court:

Any further objections?

Mr. MacIntyre:

This document,—referring to Exhibit A-3,—purports to be a transfer by Mr. Miro of a part mortgage lien on the estate of Lo de Caceres to the estate of Mata Redonda; we object on the ground that it has not been shown, and we have denied that Miro was ever the owner of Mata Redonda or Lo de Caceres; there is no evidence introduced to prove Mr. Miro ever did own Mata Redonda, and there has not been any legal proof that Pedro Miro was owner of Lo de Caceres.

The Court:

If they cannot connect it up, it has no force whatever.

Judge Fairman:

We simply wish to submit Plaintiffs' Exhibit A-3 for what it is worth.

The Court:

It will be admitted tentatively, with the understanding that unless it is properly connected up it will not be considered by the Court in evidence.

Mr. MacIntyre:

Exception.

Judge Fairman:

That is exactly what we expect by the Court.

Q. Mr. Diaz, I exhibit to you here a document, and ask you to state if that is one of the documents of title to the Estate of Lo de Caceres?

Mr. MacIntyre:

We object to that form of questioning,—let the witness state what it is.

Judge Fairman:

I am asking if that is one of the documents of title.

The Court:

Have it marked "Exhibit" and show him the exhibit and ask him what it is,—that same thing comes up every time.

Judge Fairman:

(To witness): I exhibit to you here, Mr. Diaz, a document of title,—Plaintiffs' Exhibit C,—and ask you to state what that is?

A. This is a notary document of a public sale in 1890, by the chief of the Registry Office.

Q. Who made the sale?

A. It was a public sale made by the heirs of Parades.

Q. Who was the purchaser?

A. Mrs. Cataline Lewis de Parades.

Q. This is the same exhibit which you introduced in the former trial of this case?

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A. Yes, Doctor.

Q. As set forth on pages 28 to 31 inclusive of the record?

A. Yes.

Q. I mean the translation. We will submit Exhibit C in evidence.

Mr. MacIntyre:

To this exhibit we will object on the following ground: this purports to be a sale made by the heirs of Ramon Garcia de Parades in 1890 of the estate of Lo de Caceres; the last deed purported to be introduced was a sale from Pedro Miro to a man named Jose Garcia de Parades in 1832; there is no proof who were the heirs of Jose Garcia de Parades and who is Ramon Garcia de Parades, and who are the heirs of Jose Garcia de Parades, or how and in what manner the estate sold in 1832 ever became the property of the so-called "heirs" of Ramon Garcia de Parades. Again, we object on the ground that the vendee and vendor in this sale were one and the same person; that it was a 'wash sale' by Mrs. Catalina Lewis de Parades and bought by herself through her son in order to get a title on record.

The Court:

I think I will sustain the objection and give the plaintiffs an exception.

Judge Fairman:

Then the Court, as I understand it, refuses to admit in evidence a certified copy of the judicial proceedings of the Courts in Panama wherein the property involved in this law suit was transferred to Mrs. Catalina Lewis de Garcia de Parades ?

The Court:

I have ruled on the introduction of the exhibit.

Judge Fairman:

Upon the objection stated by counsel it would appear—

The Court:
(Interrupting): I have ruled on the exhibit. Now proceed with the case. You have got your exception.

Judge Fairman:
I don't understand this situation.

The Court:
You ought to understand the papers you got here and what they are; if you don't understand them,—I don't.

Judge Fairman:
Here's my document of title, and without that I don't know where we are going to go.

The Court:
And I don't either the way you are going to-day it is pretty hard to tell; you are not going very far toward proving titles; you have no chain of title or either cannot follow them.

Judge Fairman:
I am doing the best I can with what I got. The trouble is this; possibly my long acquaintance with the loose manner of real estate methods here on the Isthmus has made me a little more lenient in regard to the kind of evidence required; naturally if the Court expects us to prove the case along the lines in the States, it is impossible to take these old Spanish titles and prove them up;—all we can do is to prove the documentary title to the best of our ability, and we simply desire to introduce them to the Court.

The Court:
But you sue on record title,—if you have no record title I do not see how you can recover.

Judge Fairman:

I don't understand; here is a record of the Court certified.

The Court:

You are a good lawyer; if you know what title, and how to introduce title,—and if you had the evidence, —you would introduce it too. Because there is no record title you could not prove it up, if it is a recorded title you prove it up. Here you get a little shot here and a little shot there. There is one sort of complaint that almost anything is admissible, but not where you plead a record title.

Judge Fairman:

This document is a record of a judicial sale of this property, and I think I am entitled to get it in this record.

The Court:

Then you have an exception if I have made any mistake in it; there may come a time in your case when that will become admissible; I don't know.

Judge Fairman:

We save our exception; but the Court is passing on the admissibility of this without knowing the contents of it.

The Court:

If there is anything in there that I ought to know about, perhaps you better read it to me, but without putting it in evidence.

Judge Fairman:

Hhere it is (indicating), in the former trial of this case, in the record made at that time,—where all these

things went in. (Hands the Court the Record of the former case for inspection).

The Court:
(Examining record). The plaintiff will be permitted to make proper proof and lay the foundation and again offer this instrument—Exhibit C—in evidence, if so desired.

Judge Fairman:
I assume the proof necessary would be to prove up the capacity of the parties at this sale.

The Court:
As it is, there is nothing before me now.

Judge Fairman:
It is as much their's as our record of judicial sale.

The Court:
You know how to connect it up, and then offer it in evidence so as to make it part of your title, if—

Judge Fairman:
The only trouble is this:—But—I can go ahead with these other documents and then come back to this.

126 The Court:
Sure; I will hear you any time during the trial; this is a matter that is before the Court, and not a jury.

Judge Fairman:
(To witness): Handing you a document, designated as plaintiffs' Exhibit D, Mr. Diaz, I will ask you to state what that document is?

A. This document is a sale by Mrs. Catalina Lewis de Garcia de Parades to Mrs. Victoria Garcia de Parades de la Guardia.

Q. That is the same document that was introduced as Exhibit "D" in the former trial of this case, the translation of which appears at pages 32 to 35 of the transcript?

A. Yes, Doctor.

Q. Plaintiffs submit Exhibit "D" in evidence.

Mr. MacIntyre:

We object to the introduction of Exhibit "D" on the following ground: Exhibit "D" purports to be a sale of Mrs. Catalina Lewis de Garcia de Parades of the estate of Lo de Caceres. The last document of title which has been introduced is one made in 1832 by Pedro Miro to Jose Garcia de Parades, and there has been no relationship shown between Jose Garcia de Parades and Catalina Lewis de Garcia de Parades in 1895, nor in what manner Catalina Lewis de Garcia de Parades became seized with the property that is attempted to be set out here.

The Court:

What is the description of the land in controversy here?

Mr. MacIntyre:

The description has been changed, but it is supposed to cover all.

The Court:

I will admit that in evidence over objections with the condition that the title must be connected up with this instrument in order that the Court may consider it in evidence.

Mr. MacIntyre:

We wish to make the same objection to "C" and "D" to all the rest of these deeds,—that the vendee, Mrs. Catalina Lewis de Garcia de Parades is not shown to have ever been in legal possession of these lands, or ever been seized thereof, or had the ownership. (Examining documents).

The Court:

This is an omnibus sort of situation, and I may be ruling on something that I would rule one way or the other on; I don't want to take an omnibus situation here, unless you make some sort of agreement as to what these instruments are, and the objections to each of them,—I don't want you simply to throw them on me.

Mr. Todd:

I think it would be best if Judge Fairman would offer to introduce all the exhibits, and we note our exceptions, if any.

The Court:

I think so; offer to introduce each exhibit, and mark your exhibit, and then make your objection, and I will make my ruling on each.

127 Judge Fairman:

Exhibit "D" has been testified to by the witness, and we submit it in evidence, together with the translation.

The Cort:

It is in evidence provisionally until it is connected up.

Judge Fairman:

(Continuing): Mr. Diaz, I exhibit to you a document, designated as Plaintiffs' Exhibit "E", and ask you to state what that document is?

A. This is a deed of the sale by Mrs. Catalina Lewis de Garcia de Parades to her son, Guillermo Garcia de Parades, to one-ninth of the lands of Lo de Caceres.

Q. That is the same document that you introduced in evidence in the former trial of this case as Exhibit "E" the translation thereof appearing at pages 35 to 38 of the transcript of record in this cause?

A. Yes, sir.

Q. Plaintiffs offer in evidence their Exhibit "E".

Mr. MacIntyre:

To which we object on the ground that the purported vendor, Mrs. Catalina Lewis de Garcia de Parades has never been shown to be owner of the property, and there is no evidence connecting her ownership of the property claimed to have been owned by Pedro Miro in 1832.

The Court:

The Exhibit is admitted conditionally, that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "F", the same being public instrument number fifty-eight, dated February 25, 1909, whereby Mrs. Catalina Lewis de Garcia de Parades sells two-ninths of Lo de Caceres to Mrs. Cristina Garcia de Parades and Mrs. Otilda Garcia de Parades de Arosemena, each one-ninth.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Mrs. Catalina Lewis de Garcia de Parades was ever owner of Lo de Caceres, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally that the plaintiff shall lay the proper foundation and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "G", the same being instrument number eighty-two, of May 4, 1902, whereby Mrs. Catalina Lewis de Parades conveys one-ninth portion of the estate of Lo de Caceres to Mrs. Catalina Parades de Escobar.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Mrs. Catalina Lewis de Garcia de Parades was ever owner of Lo de Caceres, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally that the plaintiff shall lay the proper foundation and make the proper connection of title.

128 Judge Fairman:

Plaintiffs now offer in evidence Exhibit "H", being public instrument Number Eighty-nine, of March 30, 1909, whereby Mrs. Catalina de Parades conveys two-ninths of the estate of Lo de Caceres to Mr. Ramon G. de Parades.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Mrs. Catalina Lewis de Parades was ever owner of Lo de Caceres, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally that the plaintiffs shall lay the proper foundation and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "I", being public instrument Number 106, of May 4, 1909, whereby Mrs. Catalina L. de Parades conveys one-ninth portion of the estate of Lo de Caceres to Manuel G. de Parades.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Mrs. Catalina Lewis de Parades was ever owner of Lo de Caceres, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "J", being public instrument Number Fifty-nine, of the 26th day of February, 1909, whereby Mrs. Cristina Garcia de Parades de Roux and Otilda Garcia de Parades de Arosemena convey a two-ninths portion of the estate known as Lo de Caceres to Domingo Diaz.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Mrs. Cristina Garcia de Parades de Roux and Otilda Garcia de Parades de Arosemena were ever the owner of Lo de Caceres, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "K", being public instrument Number Eighty-three, of March 18, 1909, whereby Catalina P. de Escobar conveys to Domingo Diaz one-ninth of Lo de Caceres.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Catalina P. de Escobar was ever the owner of Lo de Caceres, or had the right to sell or transmit the same.

129 The Court:

Objection overruled, and the exhibit is admitted conditionally that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "L", being public instrument Number Ninety-four of April 7, 1909, whereby Ramon Garcia de Parades exchanges two-ninths of the estate of Lo de Caceres for a building lot in the Ward of Calidonia and a certain cash consideration to Domingo Diaz.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Ramon Garcia de Parades was ever the owner of Lo de Caceres, or any portion, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally, that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "M", being public instrument Number 107, of May, 5, 1909, whereby Manuel Garcia de Parades conveys to Domingo Diaz one-ninth portion of Lo de Caceres.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Manuel G. de Parades was ever the owner of Lo de Caceres, or any portion, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally, that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "N", being public document No. 121, of May 12, 1909, whereby Francisco Alvarado Arosemena conveys to Domingo Diaz, one-ninth part of Lo de Caceres.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Francisco Alvarado Arosemena

was ever the owner of Lo de Caceres, or any portion or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally, that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "O", being public document No. 133, of May 19, 1909, whereby Dario Carrillo conveys one-ninth portion of the lands of Lo de Caceres to Domingo Diaz.

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Dario Carrillo was ever the owner of Lo de Caceres, or any portion, or had the right to sell or transmit the same.

130 The Court:

Objection overruled, and the exhibit is admitted conditionally, that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "P", being public document No. 237, of August 22, 1910, whereby "Ismael Garcia de Parades, Elisa Garcia de Parades, and Jose Maria Garcia de Parades in his own name, and as attorney in fact for his brother Saul Garcia de Parades and Mrs. Josefa Velarde, widow of Garcia de Parades as legitimate heir of her deceased son Gustavo Garcia de Parades * * * make it known that they have

given in real and effective sale to Domingo Diaz * * * one-fifth part ea one of them of the lands they hold in joint and common ownership in the estate known as Lo de Caceres."

Mr. MacIntyre:

We object for the reason that there has not been any evidence introduced that Ismael Garcia de Parades, Elisa Garcia de Parades, Jose Maria de Parales, Saul G. de Parades, and Mrs. Josefa Velarde were ever the owners of Lo de Caceres, or any portion, or had the right to sell or transmit the same.

The Court:

Objection ov ruled, and the exhibit is admitted conditionally, that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:

Plaintiffs now offer in evidence Exhibit "Q", being public document No. 135, of May 19, 1909, whereby Catalina Lewis de Garcia de Parades conveys to Domingo Diaz one-ninth part of Lo de Caceres.

Mr. MacIntyre:

We object f the reason that there has not been any evidence introduced that Catalina de Parades was ever the lower of Lo de Caceres, or any portion, or had the right to sell or transmit the same.

The Court:

Objection overruled, and the exhibit is admitted conditionally, that the plaintiffs shall lay the proper foundation, and make the proper connection of title.

Judge Fairman:
(Continuing): The translations of said documents being set forth in the Transcript of Record in the former trial of this case, as appears from the transcript of the United States Circuit Court of Appeals, No. 3382, and appearing upon pages 9 to 71, inclusive, of said record.

Mr. MacIntyre:
And to which we have objected, for the reason that there has been no evidence introduced as to the owner, of owners, of Lo de Caceres, or any portion, or that the owner or owners had the right to sell or transmit the same.

The Court:
The same ruling as heretofore will apply to your objection again.

Mr. MacIntyre:
And to which we save our exception in each case.

131 The Court:
Let the record so show.

Judge Fairman:
It seems all these documents have all been admitted provisionally, except Exhibit "C", and it is now incumbent to connect up Exhibit "C"; until I can show the connection of the party mentioned in that and the parties mentioned in the old Miro deed, I will have to ask, under the circumstances, if defendant wishes to cross-examine upon the things already introduced, otherwise to adjourn until tomorrow at 9:00 o'clock.

The Court:
(To Counsel for defendant): Do you wish to cross-examine the witness now?

Mr. MacIntyre:

I will cross-examine him on Exhibit "A", only; because the others have not been introduced.

Cross-Examination.

By Mr. MacIntyre:

Q. Mr. Diaz, you have been engaged in this particular law suit since about 1917, have you not?

A. In the law suit about 1917,—about Decmeber or November sometime.

Q. Ever since that you have had a lot of experience and practice in trying to get original records out of the various notarial offices in Panama?

A. I always go to the Notary's office for whatever records I need.

Q. How did you find the condition of these offices, —are the records complete from the time of the Spanish possession until the present date?

A. I always ask the Notary himself, or his clerk, for the document; but I know there are two rooms in the place, one room with pasteboard boxes, and in the next room there are some wrapped in papers.

Q. Have you had any experience during this suit in trying to find certain records which should have been in the Notary's office, but which have been lost or destroyed?

A. No, I always have the Notary or clerks look for the documents.

Q. Have they ever reported to you that some of the documents were lost?

A. I have not questioned them; all the documents I have been looking for I have got copies.

Q. Now, Mr. Diaz, this particular Exhibit "A" was protocolized by the Bishop of Panama in 1917?

A. In 1899.

Q. Was there any record extant of this in the Notary's office before the Bishop protocolized this document?

A. I do not know; I was not interested as owner when the Bishop protocolized that,—I bought twenty years after; I did not know at that time il was going to buy that; but I knew the story of almost all these fields by the old people who are related to me.

132 Q. Do you know, Mr. Diaz, whether these copies were on record in the Notary's office before the Bishop presented them for protocolization?

A. I do not know.

Q. Do you know whether or not there are duplicates of the old protocolization, as well as the new one?

A. The one I know is the one the Bishop protocolized; I think that is the oldest title; I do not know of any other.

Q. In your exhibit "A", beginning with page 20, there is a petition made by Senora Clara del Carmen Gongora de Caceres—

A. (Interrupting): Yes.

Q. (Continuing): Was that petition protocolized along with the other documents?

A. The whole thing was protocolized by the Bishop.

Q. Will you read the English translation to the Court?

A. (Reading): "Mr. Judge Especial for waste and unappropriated lands, Clara del Carmen Gorgona de Caceres, Executrix of my father Pablo Gorgona de Caceres owner of the lands of the estate Caceres and all others thereto adjoining, exempted (appropriated or apportioned to him by reason of title in due form thereof appertaining, which I ask should be returned to me

for keeping) before you appear and say; that finding myself, through my predecessors paternal, in possession for all time of the lands which run from the source of the Rio Hondo, on this side of said river to a brook which is in proximity to Pan de Azucar, and from said brook along a straight line to Matasnillo, and from there a straight line until opposite the headwaters of a brook which dicharges itself at the Old City, and from the source of said small brook following a straight line up to Sonsonate Hill and that of Gallinasos, and from there to Mocambo, from when the line runs down to the source of the Rio Hondo, lying inside the brook called Casteneda; and that the lady Mrs. Juana Baravena (who has nor even did have title to lands) has been disturbing my peaceful possession of the lands which by proper title I possess and own, usurping as she does the right over those portions known as Cerro de Sonsonate and Gallinasos by collecting payments from those persons who inhabit said localities; and seeing that such action violates my rights and work injury to me, in view of the just right which I possess and which is resisted I ask and petition you that, having presented to you with my proper title (which I ask should be returned to me for keeping), that she be called to produce here, and further that in the act of notification that she produce her title to the said lands, should she fail to do so, having none as she really does not have, nor ever did have, she should be notified to return me the rentals collected arbitrarily from Mr. Jose Rosario Diez, from Marcos Tilano, from the creoles called respectively Atanacio and Baltazar but whose surnames I do not know, as also those from Juan Bautista Diaz and Joanquin Sotillo with the servants of Maria
133 de la Trinidad Franco who are situated in the Gallinasos Hill, notifying her at the same time

that she should abstain from making any further collections in one form or another, and that the said Jose del Rosario Diez, Marcos Tilano, the creole Anastacio and also Baltasar and the rest of persons before mentioned, should not pay her anything of whatsoever kind, which in justice I ask, swearing on oath in due form, as I really do, that I do not proceed in my request, with malice;

(Sgd.) CLARA DEL CARMEN GONGORA DE CACERES.

having been presented the title, let it be given to the opposite party.

(There is a signature).

It was provided and signed (this decree) by Joaquin Carabajo, Esquire, Attorney of the Royal Council, Lieutenant-Governor and Auditor-General of the War Agent of these territories and Special Judge for the granting, taxation, sale and apportionment of lands of this Kingdom, Panama, 12th May, 1790. Circiaco Hipolito Correoso.—In Panama, on the same day and date (same month and year) I informed Luis de la Barrera 7 Negreiros of this provision.—Correoso. This affidavit agrees with the title, documents, decrees, approval by the Crown-Attorney, orders, and other manuscripts and proceedings of which I have made comparison and of which mention has been made; and of the petition of the lady, Mrs. Clara del Carmen Gongora de Caceres, to whom I have returned the originals, I append my sign and signature, in Panama on this 22nd day of May, 1828:—Jose del Carmen Correoso. Notary or Secretary of Government and War. There is a sign (flourish at the end of the name).

This is a copy of the original protocolized in this Notarial office on the 23rd of January, 1899, and I make an extract in nine sheets for Domingo Diaz A., Esquire, in Panama, on the third of May of the year 1912.

RAFAEL P. MARQUEZ,

(Seal) Notary Public No. One (1)."

Q. Now, Mr. Diaz, that part of Exhibit "A" which you just read isn't part of the Crown grant, is it?

A. I always have seen the Crown grant with that, —all together.

Q. The Crown grant was approved by the Spanish authorities in 1755?

A. No, I think the record says 1736.

Q That is when it was asked for?

A. I cannot remember the dates, but I think it was asked for a little before that; if I had the whole record I could testify exactly. (Is handed document for examination), Yes, here it is: (reading); "1736".

134 Q. Starting from page 19 of your Exhibit "A", the seventh line from the bottom, from the words, in Spanish, "cuidad de Panama", I will ask you if this is the the proper translation therefor,— reading from page 22 of the record: "In the city of Panama, on the 1st of August, 1736, Brigadier Dionisio Martinez de la Vega, President, Governor and Captain-General of this Kingdom, having seen the title which the Special Judge over lands has extended to Sergeant-Major Juan Francisco de Caceres, which he has nought, or has been granted by His Majesty, said:—that with respect to having paid the half-yearly imports, the title ought to be confirmed and that he has confirmed it, in order that the said Sergeant-Major may enjoy the right over whatever is therein contained as his property and possession, and thus he ordered and signed in the pre-

sence of Licentiate Jeronimo Suarez Patino, the Assessor-General, who also signed; Martinez de la Vega; Patino; Francisco Nicolas de Aizpuru; before Jeronimo Marias de Sandobal, Lieutenant of the Governor-Auditor of War of this Kingdom and Special Judge over the matters of lands, to whom was presented this title of lands, read it and examined it and then declared it legitimate, and in conformity in all its parts, who ordered that it should be returned to the owner, to which I swear, (In Panama, August 21st, 1755;" that is the date that the titles were finally confirmed to Juan Francisco de Caceres, in 1755?

A. This title was presented for confirmation, but the title was in the hands of the possessor assigned by the old titles of the Kingdom, and it says he examined the title and found it was legitimate, and this title was protocolized, and he ordered it back to the parties; that does not mean to say that a man could have had title twenty or thirty years and some day come to a judge and have that title confirmed, as it was confirmed here; he only said he read and examined the title, and it was perfectly good.

Q. The title was confirmed in 1755?

A. It was examined and found correct the 1st of August in 1736.

Q. What you read at first was a complaint filed in a law suit in 1795, filed by Mrs. Gongora de Caceres, or the executors of Gongora de Caceres, deceased?

A. From what I can see it seems to me this lady had asked for ejectment on the land of people who were in her lands without title; she presented the title and asked that it be returned to her, and notifying the people who were there on her land to produce their title.

Q. And did they produce any titles?

A. I do not know.

Q. What you have submitted in evidence is the complaint brought by Mrs. Gongora de Caceres against a woman called Senora Juana Baravena;—do you know what became of the judgment rendered on that complaint?

135

A. No,—nothing but that protocolized by the Bishop of Panama in 1899.

Q Is there in the records the remainder of the suit, or judgment?

A. I have only seen that (indicating); I have told the Notary to bring me the title of Lo de Caceres, and I asked for a copy. The Notary can be brought here to testify if there is existing anything else except what the Bishop protocolised. When a Notary Public protocolises something, they sign right in the protocolisation, but the books itself could be seen with the title, to see if they were presented by the Bishop.

Q. I served notice on your attorney and asked you to produce in Court the balance of the proceedings in this law suit, together with the judgment against Mrs. Gongora de Caceres,—did you produce that to-day?

A. I cannot produce something I do not know, and I have seen nothing except what is protocolised by the Bishop.

Q. I have also asked you to produce the sentence or procedure had before the Judge of the Republic of Nueva Granada in the suit in which Mrs. Jose Gomez was plaintiff and Jose de Parades was defendant, which suit was decided in 1841?

A. I cannot bring something I do not have, and I do not believe exists, and I can very easily prove it is an absurdity. To explain myself; I have seen introduced by Mr. Patterson in the law suit in Panama a supposed copy of that supposed law suit,—that is the only thing I know of this, and it could be very easily verified by

engineers if it is true or not; that sentence is an absurdity according to the titles of both haciendas and the record.

Q. But that sentence which you did see, revoked the sale made by Miro to Jose de Parades?

A. I have not seen the sentence except what Mr. Patterson introduced, and the Court in Panama speaks of that in the papers introduced by Mr. Patterson, and they make some analysis of the introduction of the papers and this supposed law suit.

Q. But you have no record of that yourself?

A. I have seen none in my life except what Mr. Patterson published against me.

Q. In your chain of titles, or in some of the titles, which have been presented by you, there is a man called Pedro Miro; who was his wife?

A. Maria Eusebia Jimenez according to the records was the legitimate wife.

Q. Who was their daughter?

A. I cannot say—I cannot exactly remember if I have seen in the records produced that Josefa Miro is the daughter of Pedro Miro; it reads in that (indi-
136 cating) that she is the daughter, but I do not remember having seen that she is the daughter.

Q. Did you not, in a certain law suit existing between yourself and Mr. Patterson in the Republic of Panama, admit that Maria Josefa Miro de Gomez was the daughter of Pedro Miro?

A. I think she was the daughter; I cannot testify she was really, but my impression was she is the daughter, because the name and all that is proof that she is the daughter of Pedro Miro.

Q. And you still admit that?

A. That is my impression.

Q. That is all.

(The trial having proceeded until the hour for adjournment, by agreement of all parties hereto that an ocular inspection of the premises be made by the Court, said ocular inspection is set for the forenoon of the 19th day of April, 1921, and the Court is adjourned at 5:00 o'clock p. m. till 9:00 o'clock a. m. of April 19, 1921.)

137 April 19, 1921.

(On this nineteenth day of April, 1921, pursuant to an agreement of the parties to this case, made and entered yesterday, the Judge, counsel the the parties hereto viewed the land in controversy, went over the different lines as claimed by the different parties, and most of the day being consumed just for such ocular inspection, the taking of further evidence in this case was continued until tomorrow morning at 9:00 o'clock.)

138 April 20, 1921.

(Court resumes session at 9:00 a. m., and continues hearing of testimony in this cause.)

Judge Fairman:

Upon the first day of this trial in this case, the Court refused to admit in evidence Exhibit "C," which was the proceedings bearing on the succession of the heirs of Don Ramon Garcia de Paredes; in order that I might connect the proceedings set forth in this document with the document I am now to present, I ask that Don Ricardo Arias be sworn.

RICARDO ARIAS, having been duly sworn according to law, is examined and testified as follows:

Direct Examination.

By Judge Fairman:

Q. Please state your name?

A. Ricardo Arias.

Q. Where do you reside?

A. Here, in Panama.

Q. How long have you been a resident of Panama?

A. I was born here in Panama.

Q. How many years ago was that?

A. Sixty-nine years next May.

Q. Were you acquainted with what is known as the Paredes family; that is Don Ramon Garcia de Paredes and his family?

A. Yes.

Q. How many years have you been acquainted with the family?

A. Since my childhood.

Q. Did you have any special connection or relation with Don Ramon Garcia de Paredes?

A. I was secretary to Ramon Garcia de Paredes when he was agent for the Pacific Steam Navigation Company.

Q. Know his wife and family?

A. Yes.

Q. State his wife's name.

A. Catalina Lewis de Garcia de Paredes.

Q. And their children?

A. Ricardo, Ramon, Guillermo, Catalina, and others,—there were quite a number.

Q. Do you know in what year Ramon Garcia de Paredes died?

A. I do not remember exactly.

Q. Did you have any connection with the succession of the heirs of Don Ramon Garcia de Paredes?

A. I was appointed appraiser of the estate.

Q. In what year was that, if you remember?

A. In the 90's,—in the early 90's.

Q. Do you know who the father of Ramon
139 Garcia de Paredes was?

A. Jose Garcia de Paredes.

Q. Are you acquainted with the Estate known as Lo de Caceres?

A. Generally.

Q. Can you state in a general way where that Estate is located?

A. Out in the Sabanas.

Q. Have you ever been upon that Estate?

A. Yes, I have passed through there.

Q. Do you know whether or not the Paredes family lived on this Estate?

A. They had a country place there, and a dairy.

Q. How many years back do you know that?

A. More than half a century.

Q. Do you know the general reputation in Panama as to who was the owner of the Estate of Lo de Caceres?

A. Up to my earliest recollection it belonged to the Family of Paredes, represented by Don Ramon Garcia de Paredes.

Q. You acted as valuator of the Estate of Ramon Garcia de Paredes?

A. Yes, sir.

Q. You mean by that that you valued the Estate from the inventory made of the property left by the deceased?

A. Yes, sir.

Q. What, among other property, was left by the deceased with respect to any real property?

A. Explain that.

Q. What particular real property that you know of was inventoried and appransed as part of the Estate of Ramon de Paredes?

A. A house on B Avenue and Lo de Caceres,—these were in the succession.

Q. The proceedings you spoke of,—did you take any part in these proceedings in the Courts of Panama?

A. Yes, sir.

Q. Then the question of the estate of Ramon Garcia de Paredes was judicially ascertained?

Mr. MacIntyre:
To which I object.

The Court:
Will the record show that?

Judge Fairman:
I withdraw the question.

Q. (Continuing): Mr. Arias, what position or offices have you held since the Republic of Panama became into being?

A. I was appointed fiscal to the United States to receive from the United States the Ten Million for the Panama concession; to invest the Ten Million, and deposit the rest in responsible Trust Companies and Banks. I was Secretary of Foreign Affairs; and Minister to Washington after that.

140 Q. Take the witness.

Cross Examination.

By Mr. MacIntyre:

Q. Mr.Arias, you were born in '52, were you not?

A. . Yes, sir,—the 2nd of May in '52.

Q. About how many years ago did you remember the Lo de Caceres Estate?

A. Since my childhood.

Q. Since you were,—say, ten years old?

A. Since my recollection began.

Q. In what part of the Estate did the Paredes family have their dairy?

A. On one of those hills there,—I cannot locate the exact position.

Q. Do you remember, Mr. Arias, the gate on the old Mata Redonda Road that went into the property of Guillermo Patterson?

A. I know the property generally, but cannot specify the gate.

Q. You never went through that gate to Mata Redonda?

A. I may have.

Q. You know Gabriel Duque?

A. Yes, sir.

Q. And Juan Zayas Batista?

A. Yes, sir.

Q. Do you know when those gentlemen had a dairy at Mata Redonda?

A. No.

Q. Do you remember the dairy conducted by Mr. Guillermo Patterson at Mata Redonda?

A. I have not been on the property since Mr. Patterson had the property.

Q. When was the last time you were on the property?

A. I have not been there very often;—I remember back of that when a man by the name of Quintero had a dairy there.

Q. Remember when Mr. Quintero was in possession there?

A. Yes, sir.

Q. Where did Mr. Quintero live at that time?

A. The house?

Q. Yes.

A. Out in the Sabanas?

Q. Yes.

A. I cannot specialize,—I only know Quintero had a dairy there.

Q. That was in 1870?

A. I cannot state the exact date, but the records show when Quintero was owner of that property.

Q. Remember the old Porto Bello trail?

A. I think I turned over those papers to Mr. Patterson with that.

Q. You were the one who gave the Quintero papers to Mr. Patterson?

A. Yes, sir.

Q. Would you recognize them if you saw them again?

A. I think so.

Q. Do you think you would remember Quintero's signature if you saw it again?

A. No,—

Q. Handing the witness a—

141 Judge Fairman: (Interrupting):

I assume, Mr. MacIntyre, you are making this witness your witness?

Mr. MacIntyre:

Oh, yes; anything not part of the direct examination.

The Court:

Then you will either have to make him your witness now, or call him later.

Mr. MacIntyre:

He said he knew all about Lo de Caceres property, and was on it and knows they had a dairy there, and I

am asking when he was out there, and he says he was out there when Mr. Quintero had it.

Witness:

Not in Lo de Caceres,—I am referring to Mata Redonda.

The Court:

Understand, you are making him your witness on any new matter.

Mr. MacIntyre:

Yes, sir, and I am bound by anything new he states. (To the witness): Handing the witness a package of papers, marked Defendant's Exhibit A-1, I will ask him if these are the papers of Senor Nasario Quintero that the witness gave to Mr. Patterson or Mr. Duque in 1870?

A. I could not recognize these papers; incidently, I had some papers belonging to Mr. Quintero in my possession, and as I had no use for them, and as Mr. Patterson was my friend, I gave them to his father, Guillermo, the papers I had connected with Quintero.

The Court:

Was it title to the land?

A. Yes, sir; deeds to the land.

Q. As I understand you, the papers you delivered to Mr. Patterson were papers in connection with the title of the land?

A. To the title of the Estate of Mata Redonda, which became in possession of Mr. Guillermo Patterson; when he bought these lands I had these papers in my possession; I do not know whether they are those (indicating Exhibit A-1) or not, but they look like them to me; as they were not of use to me and might be of use to him I gave them to Mr. Guillermo Patterson.

Q. Look at Exhibit A-1, and tell the Court what your best judgment or recollection is, and state whether or not those are the papers which you delivered to Mr. Patterson?

A. These may have been part of those papers, but I could not say for certain what I gave Mr. Patterson. It is my recollection merely what I gave him were deeds of possession, and those deeds are not here; but this (indicating) may form part of those papers.

Q. Have you any recollection of the subject at all, as to this Exhibit?

A. I could not recollect that I gave him these (indicating Exhibit A-1) papers; the papers I gave him were deeds of Quintero. Old Nasario Quintero was a good friend of Mrs. Hartado, whose business I
142 managed, and we had the girl in the house who she cared for, and the papers were in her possession; when she died those papers were in her possession, and as I had my friend Mr. Patterson, Senior, I gave them to him as these papers were of no use to me, and might be to him.

Q. Were the titles which you delivered to Mr. Patterson pertaining to the lands in question here?

A. To the lands of Mata Redonda; because Mr. Patterson was the owner of the lands for some time, and as I indicated, these papers came to my possession and had no owner, and the only use they were, were to the Estate of Mata Redonda and my friend Mr. Guillermo Patterson who was the owner of the land, I gave them to him.

Q. About when was that?

A. Many years ago. It was about the time Mr. Patterson came in possession of that land.

Q. Then you delivered all the papers pertaining to that land that you had in your possession?

A. Yes, sir.

Q. How long were these papers in your possession before you delivered them?

A. They were not actually in my possession; Mr. Quintero's sister lived in the house with my aunt, and I was Mrs. Diaz' manager of her affairs, and she died and left those papers, and they came to my possession.

Q. Proceed.

Mr. MacIntyre: (Resumes examination): How long ago—how many years ago did Trinidad Quintero die,—more or less?

A. I could not say.

Q. Has it been twenty-five years ago?

A. I think so.

Q. Did she die before the date Guillermo Patterson had the Mata Redonda property,—did she die before then?

A. I think so, but I do not remember the exact time.

Q. The record will show and the deeds exhibited in evidence in the last trial and which we still have in evidence, will show Don Guillermo Patterson bought the property of Duque in 1891,—therefore, you place the death of Trinidad Quintero, who was in possession of these papers (Exhibit A-1) prior to that time?

A. Yes, sir, I think so.

Q. I will show you Defendant's Exhibits "J" and "L," which have been already introduced in the former hearing of this case, and which are still in evidence, and will ask you if these two papers,—"J" and "L,"—are part of the papers of Quintero which you delivered to Mr. Patterson?

143 Judge Fairman:

Your Honor will know I am not objecting to this procedure; I wish to facilitate matters so far as I

can. I am not objecting to the defendant putting in his case at this time.

The Court:
I think it would be convenient to all parties.

Judge Fairman:
Absolutely; and I see no necessity to delay the case.

The Court:
He would only call him later if he did not do it now.

Witness:
(Examining documents): One of these is the deed conveying Quintero the land; I suppose that that was in the papers as that was the main paper he should have.

Mr. MacIntyre:
I will ask you, Don Arias, to the best of your present recollection and knowledge are the papers which you have seen contained in defendant's Exhibit A-1, and "J" and "L",—are those, to the best of your present recollection, the papers which you delivered to Don Guillermo Patterson?
A. As to this deed,—which is disconnected,—I could not say this is the deed (indicating exhibit "J"). As to the other deed, I think that must have been one of the papers that Quintero had, because that is the deed of conveyance to him (exhibit "L"). Now,—there is something that might have me to think these papers were,—because I find this handwriting is the handwriting of Dr. Carlos Ycaza Arcsemena, who was attorney for my aunt, (referring to Exhibit A-1),—the indications are they may have been, but I cannot say they are, it is so many years ago, and in fact, I had no interest in making

an inventory. They did not belong to anybody and I thought they might be of use to Mr. Patterson, my friend, and I gave them to him. But this leads me to think they may have been, because I recognize the handwriting of Carlos Ycaza Arosemena.

Q. You state that Dr. Carlos Ycaza Arosemena was attorney of whom?

A. For Mrs. Hurtado.

Q. And you had more or less business with Dr. Arosemena?

A. Yes, sir.

Q. Do you remember if the papers which Trinidad Quintero had were indorsed by Nasario Quintero?

A. The papers Miss Trinidad had were his confidential papers; when she died she most likely left them with Mr. Hurtado.

Q. Remember when Mr. Quintero died,—how many years ago,—about?

A. I should say it was about between thirty and forty years ago, to the best of my recollection.

Q. I will ask the stenographer to take the various papers, included in the bundle forming defendant's Exhibit A-1, and to number or letter them with script letters, (a), (b), (c), (d), and (e), as the con-
144 tents of Exhibit A1.

Judge Fairman:

If Your Honor please, is that offered in evidence?

(The Reporter marks Exhibit A-1, as requested above).

Judge Fairman:

(Examining documents): It is impossible for me to offer any reasonable or sensible objection to these papers until I have had opportunity to examine them carefully,

and before that, I would suggest that I be furnished a translation of this document.

Mr. MacIntyre:
At this time we would offer translation of the document marked (e), part of exhibit A-1,—we will state the papers are all in Spanish and while the assistant counsel Mr. Arias and the defendant, Mr. Diaz, examine them, the balance of the papers are immaterial, merely being some old receipts of Mr. Quintero's, tax receipts, and old canceled promissory notes, but we will deposit or tender the translation fees for the other documents.

The Court:
Dr. Arias will know about that.

Judge Fairman:
This document would require very careful translation.

Mr. MacIntyre:
I offer the following translation of document, marked (e), part of Exhibit A-1,—

Judge Fairman:
(Interrupting): Are you going to read it?

Mr. MacIntyre:
I offer the following translation, subject to any correction, and tender any fees for translation, if necessary. (Reads):

"Know all men by these presents: According to what has been shown in the evidence and briefs submitted by the parties, it is established that Pedro Miro was Maria Eusevia Jimenez' legal husband and that while she was

alive he sold the estate of Lo de Caceres to Mr. Jose Garcia de Paredes giving him with it all the land to the right hand side of a line from Macambo to the Mata Redonda. Deed of September 18, 1832, offered in evidence establishes an irrefusable privilege in favor of Gregorio Gomez, Jr., legal husband of Maria Josefa Miro, plaintiff, who has inherited her husband's legal rights and to whom the property of the said estate has fallen. It has been equally shown by individual questions asked by Manuel Montreal de Pedro Miro that he admitted that Mrs. Jimenez de Miro bought the estate of Mata Redonda with her own dotal money; therefore, it has been proven that she did have the right to establish the said irrevocable privilege and that Pedro Miro had no right to sell any portion of the said estate without her consent because it is specially forbidden by Law 49, Title 5, Part 5. A privilege is a real right and Mrs. Gomez is in actual possession of it; she has therefore the right to revindicate. She petitions in her pleadings dated February 4, 1840, that Mr. Jose Garcia de Paredes be compelled to give her back all the lands belonging to the estate of Mata Redonda which was clearly described in a judgment dated October, 1790, attached to her petition. Said judgment handed down by Honorable Juaquin Cabrejo in favor of Mr. Luis de la Barrera y Negreyros in a possessory action filed by Mrs. Clara del Carman Gongora in March 1790 reads in part as follows: "It is derived from this analysis that the Crown Grant title of Mata Redonda introduced as evidence, may be made to harmonize with the Lo de Caceres Crown Grant, introduced also as evidence as far as the one states that its boundary line on the upper side is drawn from a hill called Gallinazos to the furthest boundary of Mocambo, and the other Grant states that its boundaries go to the hill of Sonsonate and that of Gallinazos and from there to

Mocambo. It all means that the limits of the Caceres land reach from Sonsonate Hill to the furthest boundaries of Mocambo and thence they return passing in front of Sonsonate Hill to the large Gallinazo Hill. It has also been proven that Captain Luis de lo Barrero y Negreyros has rendered to Mrs. Juana Bavarena by means of a written contract, since eleven years ago, the establishments of Algarrobo, Sonsonate and Gallinazes as long as she has been all this time in possession of them as his tenant. It is pertinent to determine, therefore, that Captain Luis de la Herrera y Negreyros is and has been in legal possession of the lands from the furthest boundaries of Mocambo to the Gallinazos Hill and thence to the spot called Mata Redonda, which lands include the establishments of the Algarrobo, Sonsonate and Gallinazos." But there is no accord between the parties regarding the position of the places Mocambo and Gallinazos, on this account Mr. Jose Garcia de Paredes introduced the oral testimony of Mrs. Juana Felis Navarrete, fifty years old, born and brought up on Mocambo until of age, according to her own saying, who answered to the second question thus: That she knows the region called Mocambo as she lives at the place called Palace; that it lies within or in the middle of the hills Isleno and Angeles; that it is surrounded by the above mentioned hills and that of Penon and that the spot called Mocambo is a river and she answers the question thus: Oral testimony given by Mrs. Manuela Pequeno and Mr. Silvestre Gil agree fairly well with the above testimony. Oral testimony introduced by Mrs. Gomez through witnesses Jose Marie Chiari, Jose Pablo Arce, Andres Avelino and Juan Berrea agree also with it, except that they state that the river is called Manteca or Mocambo, and that it starts at the Penon Hill. From the above evidence it is clear that the Honorable Court

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when explaining the Crown Grants fixed as the furthest boundaries of Mocambo a spot at the foot of Penon Hill where the Manteca or Mocambo River starts. When Jose Maria Chaiari answered under oath the questions presented by Mrs. Gomez he said in answer to the second that he knows the region called Gallinazos because his aunt, Mrs. Juana Bavarena rented it when he was a child; that it is a mountainous hill which lies very close to the Sonsonate Hill, somewhat southeast of it, where Captain Luis de la Herrera y Negreyros had placed a flag, for which reason sometimes it was referred to as the hill of the flag (Cerro de la Bandera); that it can be seen to the right of the road when going from this City to Porto Bello; that he also knows other Hills with that name; that there is a large one towards Lo Concepcion Estate, and another with a rock on top which lies within the region known as Algorrobo, which can be seen also from the road towards the left hand side when going to Porto Bello, and he answers the question asked this; the rest of the witnesses answer in a like manner with little difference in the wording.

Paredes' witness do not agree among themselves. According to the title introduced as evidence by Paredes which was the same one introduced by Mrs. Gongora de Caceres and the oral testimony accumulated by both parties it is clear that the Gallinazos Hill referred to in the above mentioned judgment lies to the Southeast of the Sonsonate Hill. As Mrs. Gomez' right is clear, and as to those points in the executed judgment introduced which are in issue have been determined, and administering justice in the name of the State, and by authority of the law Mr. Jose Garcia de Paredes is hereby ordered to return to Mrs. Maria Josefa Miro, widow of Gomez, within six days the lands of Sonsonate, Algarrobo and Gallinazoa, included withing the boundary line that

comes out of the headwaters of the Manteca or Mocambo River, next to the Itsleno, Angeles and Penon Hill, and goes thence to the Gallinazos Hill which is to the southeast of the Sonsonate Hill and thence to the spot called Mata Redonda, and it is likewise ordered and decreed that this judgment be registered after it has been executed. Let the expense of the law suit be paid by the parties as they have expended it and common costs be paid by equal portions between the parties.

MANUEL ARCE.

This judgment has been handed down and signed by Dr. Manuel Arce, Illustrious Judge of Real Estate.

JOSE de los SANTOS CORREOSO.

Panama, June 7, 1841.

In Panama on the 8th day of the same month and year I made it known to Mr. Jose Garcia de Paredes in the office.

GARCIA de PAREDES. CORREOSO.

On the same day I made it known to Mr. Manuel Monteral out of the Court.

MONTERAL. CORREOSO.

I immediately notified to Mrs. Josefa Miro at home.

MIRO CORREOSO.

Know all men by these presents: This judgment is already executed by provision of the law and because no appeal has been taken from it.

MANUEL ARCE.

146 This ruling has been handed down and signed by Dr. Manuel Arce, Illustrious Judge of Real Estate. Panama, June 14, 1841.

JOSE de los SANTOS CORREOSO.

Dr. Arias:

In order to make that translation a great deal of imagination is required.

Judge Fairman:

We object to the translation and to the document for the simple reason that it does not appear from the appearance of the document that there is any seal or stamp, or other signature upon there, with the exception of "Gomez", wherein the orginal signatures of any of the parties purported to be interested in this tranaction is shown; this document may have been the creature of some one's imagination and from all the Court can determine.

The Court:

I think you will have to introduce that evidence under the rule of ancient documents.

Mr. MacIntyre:

I will, may it please Your Honor, offer in evidence the package marked A-1, containing the documents marked (a) to (e), inclusive; and I will state at this time, with particular reference to document (e), part of contents of defendant's Exhibit A-1, I will make the following offer; defendant will connect up this document by proof, first, that there was a law suit instituted by Mrs. Clara del Carmen Gongora de Caceres in 1790, as appears from the complaint signed by that lady, and introduced for plaintiff as his Exhibit "A"; I will further prove that there was a law suit between Mrs. Josefa Miro and Jose Garcia de Paredes in 1841 by introducing part of the law suit found in the office of the Notary. I will also introduce proof that the record of that law suit in 1841 has become lost or abstracted from the archives. I will also introduce a judicial order made

by Jose Garcia de Paredes at a time when he, the said Jose Garcia de Paredes, was a judge, and at which time he fixed the boundaries of Mata Redonda in this judgment against himself. I will also prove by Guillermo Patterson that he had had this document in his possession for more than thirty years. I also call the Court's attention to the appearance of the document itself and its visible appearance of age and authenticity. I will also show that the parties to that suit, Mrs. Josefa Miro and her successors in interest, down in an
147 unbroken chain to the present defendant, have depended on that judgment, and been in possession of that land ever since that time.

The Court:

As part of her claim of title, what will you prove?

Mr. MacIntyre:

There is already introduced the deed from that lady to Mr. Noriega, and the deed from Mr. Noriega which was made as follows in Mr. Noriega's lifetime. To make this document admissible I am going to introduce in evidence an official certified copy of the servitude, or mortgage, or entail that Pedro Miro's wife put upon Mata Redonda to stop her husband from selling the estate to Jose Garcia de Paredes, on which this suit is based. I will introduce in evidence, or there is already introduced in evidence as defendant's Exhibit 1, contained in the original record, and still relied on,—the sale from the plaintiff, Mrs. Miro, to one Noriega. There is also in evidence defendant's Exhibit "J"; which is as follows, a record of the fact that Mr. Noriega, who bought from the plaintiff this estate, gave an option on Mata Redonda to a Mr. Rivera. On the death of Noriega the title had not yet passed, and Mr. Rivera

brought an action before Mr. Jose Garcia de Paredes, who was the defendant in this very case, and asked that the Noriega heirs be forced to convey the land on which their father had given the option to him, and Exhibit "J" shows this. In Exhibit "J" there is the record of the judicial proceedings in which Mr. Paredes,—then a Judge,—delimited the lands of Mata Redonda in accordance with the judgment against himself. Every other deed, duly recorded in an unbroken chain relied on the same titles as set up in that judgment. I will also prove that the defendant has been in continuous hostile, adverse, unbroken, uninterrupted, and undisputed possession of that land up to the time of the beginning of this present suit.

Another thing, I am gong to introduce: I will introduce in connection with this ancient document the certified copies from the Notary's office of part of that same proceedings,—namely, the questions asked by Mr. Jose Garcia de Paredes of the witnesses, all of which are copied in full in that judgment.

The Court:

I will admit this conditionally that the matter be properly connected up and made admissible in evidence,—which has not yet been done.

Judge Fairman:

We cannot object to a conditional admission.

The Court:

If this witness could have gone further it could have been admissible, but your proofs will have to be under the rule of ancient documents introduced in evidence largely; unless you can get further specific proof from the records, certified.

148 Mr. MacIntyre:

(Continuing): Did you know Don Jose Garcia de Paredes

A. No, sir.

Q. Did you know of him by repute and report?

A. No, I did not know him.

Q. Know who he was?

A. I knew he was the father of Ramon Garcia de Paredes.

Q. Know if he was a Judge under the Republic of New Granada?

A. No, I do not know.

Q. How many children did Jose de Paredes have?

A. Ramon Garcia de Paredes; Mercedes; Maria; and Jose Garcia de Paredes; I think that is all.

Q. Did they have any heirs or descendents?

A. Certainly.

Q. How many,—about?

A. I could not tell,—quite a number.

Q. You do not know them all?

A. Mrs. Mercedes Garcia de Paredes de Mendez; Maria Garcia de Paredes de Lewis,—I think there were three of them. I do not know how many dead.

Q. These were brothers and sisters of Ramon Garcia de Paredes?

A. Yes, sir.

Q. Now, Mr. Arias, you testified in your direct examination that you appraised the estate of Ramon Garcia de Paredes?

A. Yes, sir.

Q. What year?

A. In the early '90's.

Q. Is it not a fact it was in 1895?

A. I do not remember the exact date.

Q. Did you appraise the estate at the time Mrs. Catalina Lewis de Paredes offered the estate for sale at public auction?

A. No, I do not remember whether she offered it for sale or not.

Q. You do not know whether it was before or after Mrs. Catalina de Paredes offered it for sale?

A. I did not know she offered it for sale.

Q. Your appointment was made by order of the Court?

A. Yes, sir.

Q. Were you living on the Isthmus in 1895?

A. Yes, sir.

Q. Remember the Revolution that was on at that time?

A. In '85?

Q. '95.

A. Well, we have had so many Revolutions you will have to go back to the history; we had constant Revolution.

Q. Remember the Revolution that broke out in Bocas del Toro, when Gen. Reyes was sent over in 1895?

A. I cannot remember specifically each of the Revolutions, or the details,—to say the truth, we were in constant Revolution.

Q. Isn't it a fact that during some of the Revolutions there was an executive decree closing the Courts during the Revolution?

A. It may have been so. In fact, during those times you could not tell when there was justice and when there was not, even if there were Courts.

Q. Do you know Carlos Ycaza Arosemena?

149 A. Yes, sir.

Q. Mr. Arias, in 1895, or thereabouts, what did Carlos Ycaza Arosemena have to do with properties known as "San Jose", "Vista Hermonsa", or either one of them?

Judge Fairman:

I do not quite catch the idea, if Your Honor please.

Witness:

I know Mr. Carlos Ycaza Arosemena, but I do not know what connections he had to do with those lands, except they were his.

Mr. MacIntyre:

Those lands were his?

A. To my knowledge.

Q. I will hand the witness a document marked by the Clerk of the Court as defendant's Exhibit "C", and was introduced and was originally part of the record in this case, but through some oversight, was probably left out of the printed record which went to the Circuit Court of Appeals, and I will ask the witness what this is?

A. This paper speaks for itself; this is a notice of Dr. Carlos Ycaza Arosemena that he is not in accordance with the boundaries as to his lands of San Jose and—

Q. Is that a certificate, Mr. Arias?

A. This is a certificate of the Public Librarian of the municipality.

Q. This was part of the original record, and for some reason was left out of the printed record. We are going to submit to the Court all of the evidence at the former trial.

The Court:

On your side?

Mr. MacIntyre:

Yes, we submit it all;—except this (indicating) which was left out of the former printed record. I will admit,

may it please Your Honor, this certificate is not properly certified in accordance with the rules of the Court, and I will withdraw it until we have it properly certified then there will be no questions.

Q. Now, to return to your knowledge of the succession of Jose Garcia de Paredez. You state that Jose Garcia de Paredes had the following children: Ramon, Jose, Mercedes, Maria, and Catalina?

A. Yes, to my best recollection; there may have been more.

Q. How many children did Ramon have?

A. Quite a number.

Q. How many children did Jose have?

A. I could not say.

Q. He have quite a number also.

A. He had some.

Q. How many children did Mercedes de Mendez have?

A. Quite a number.

Q. How many children did Marie have?

A. Three.

Q. And how many did Catalina have?

A. I cannot remember the exact number; she had several children.

Q. I believe that is all we want to ask Don Ricardo.

Re-Direct Examination.

By Judge Fairman:

Q. Mr. Arias, the various children which you have stated,—referring to the brothers and sisters of Ramon Garcia de Paredes,— do they appear in the matter of the succession to the estate of Lo de Caceres?

Mr. MacIntyre:

To which we object; in the matter of succession to Lo de Caceres, the records are the proper—

The Court:
(Interrupting: Re-read the question.

Reporter:
Mr. Arias, the various children which you have stated, —referring to the brothers and sisters of Ramon Garcia de Paredes,—do they appear in the matter of the succession to the estate of Lo de Caceres?

The Court:
I will sustain that objection.

Judge Fairman:
Who appear in the proceedings, if you know, relative to the succession of the estate of Lo de Caceres, the property of Jose Garcia de Paredes?

Mr. MacIntyre:
To which we object; the records of the succession are the best evidence as to who appeared.

The Court:
He asks 'if he knows'. The objection is overruled.

Mr. MacIntyre:
We wish to save our exception on the ground that the record of the proceedings, if any there were, is the best evidence.

Witness:
I have no reason to know who the heirs to Ramon Garcia de Paredes appear; I do not know anything about his succession.

Judge Fairman:
I speak of the succession of Ramon Garcia de Paredes.
A. I think Jose was the last question.

Q. (To reporter): (I will ask you to strike out the whole question because Mr. MacIntyre stated the proceedings are the best evidence.

Q. (Continuing): Now, Mr. Arias, the writing upon the cover here which you have identified is on the cover in which the papers Exhibits (a) to (e) are, is on a cover, isn't it?

A. Yes, sir.

Q. You did not know whether the papers contained in that cover were among the papers which you delivered at the time you said to Mr. Patterson?

A. No,—and I already said so here; to my best recollection I gave my friend, Mr. Guillermo Patterson, Senior, the deeds; I recognize the handwriting of Dr. Carlos Icaza Arosemena in this folder.

151 Q. You do not know whether these papers were contained in that folder at the time?

A. No.

Q. Or whether you delivered these papers to Mr. Patterson?

A. They may have been.

Q. And all the papers that you delivered to Mr. Patterson had reference to the estate of Mata Redonda?

A. Yes, that is my recollection.

Q. Ever deliver to him any papers relating to the estate of Lo de Caceres?

A. Not to my recollection; I had these papers that belonged to Quintero that were of no use to me, and only of interest to my friend, Mr. Guillermo Patterson, and therefore I turned them over to him.

Q. Those papers related solely to the estate of Mata Redonda?

A. Yes, as I recall it.

Q. That is all.

By Mr. MacIntyre:

Q. Handing the witness an Exhibit marked for identification "A-2", pages (g), (h), and (i), I will ask the witness to state to the Court what are these?

A. The one marked (g) is the certificate of the Notary Public that no document has been entered to show that there has been a probate proceeding of Jose Maria Garcia de Paredes; he has found in the registry the succession of Jose Garcia de Paredes, which, by judicial order of March 9, 1906, Jose Ismael, Saul Saturino, Elida Maria de los Dolores, Gustavo las Mercedes, and Jose Maria Garcia de Paredes have been declared heirs of Jose Garcia de Paredes.

Q. That Jose Garcia de Paredes is one of the sons of old Jose Garcia de Paredes?

A. Yes, sir, he is one of the five children.

Q. And those are his heirs which are mentioned in that document?

A. Yes, known as the "succession of the children of Jose Garcia de Paredes.

Q. What is the instrument marked (i)?

A. It is another certificate by the Notary Public which says there does not exist any probate proceedings of Jose Maria Garcia de Paredes.

Q. I believe the attorney has stated to me that they will admit Jose Maria Garcia de Paredes—that his estate was never probated.

Judge Fairman:

I do not know; I cannot admit that; I do not know anything about it.

The Court:

Does your assistant know, Dr. Arias?

152 Dr. Arias:
I do not know.

Mr. MacIntyre:
I submit Exhibit A-2, pages (g) and (i), and they not being translated we tender fees for their translation.

The Court:
May be after they look it over they may not ask for any translation.

Mr. MacIntyre:
I wish to ask Mr. Arias how many children Jose Garcia Maria de Paredes had?
A. Three. Old Jose, the father of Raman, Jose, Junior; and Jose Maria Garcia de Paredes de la Banera.
Q. The last one is still living?
A. No, but the son of Jose Maria de la Paredes is still living; we call him Jose Maria de Paredes de Velarde;—Velarde is his mother's name.

Judge Fairman:
This will be known as defendant's Exhibit "A-2", pages (g) and (i)? There is no objection on behalf of the plaintiffs to the introduction of that particular part of this Exhibit, providing, of course, that the proper translations will be made.

The Court:
And it may be admitted under that statement.

Mr. MacIntyre:
I will ask Dr. Arias if he will be so kind as to read and translate these two exhibits to the Court? (Indicat-

ing assent). Dr. Arias will now read pages (g) and (i), being part of defendant's exhibit marked "A-2", for identification.

Dr. Arias:
(Reading translation):

"The undersigned, Notary Public Number One of the Circuit of Panama, at the verbal request of Guillermo Patterson, Junior, certifies: That in the archives of the Notary Public Number One, he has not found any document showing that there has been probate proceedings of Jose Maria Garcia de Paredes, nor that there has been protocolized in this Notarial office said proceeding; that he has found protocolized the probate proceedings of Jose Garcia de Paredes, in which by order of March 9, 1906, Volume 7, page 17, it is found that there are declared to be his heirs his legitimate children: Jose Ismael, Saul Saturino, Elida Maria de los Dolores, Gustav de las Mercedes, and Jose Maria Garcia de Paredes.

"Panama, October 26, 1918.
(Sgd.) FRANCISCO A. FACIO,"

"Norcisco Garay, Secretary of Foreign Relations, hereby certify that the signatures reading "Francisco A. Facio" and " Archibaldo Boyd" are authentic
153 of the Notaries Number One and Two of the Circuit of Panama of the year 1918" ....."
Then there is his signature, and seal.

The Court:
The certificate of that office to these signatures has been signed to the document you read in evidence,—that is, in a different part?

Dr. Arias:

The certificate is a different part of the document itself because they are issued by different officials; this is a bunch of documents issued by different officials and then there is the one official certificate to all by the Secretary of State,—

Mr. MacIntyre:

(Interrupting): Certifying the signature of Mr. Facio and that of Mr. Boyd, who signed.

The Court:

Is that translation to be taken as though it was officially translated and copy furnished?

Judge Fairman:

I think we can just leave that right in the record.

Mr. MacIntyre:

The other document marked (1), part of defendant's Exhibit A-2, read by Dr. Arias and translation made by consent of parties, is substituted for the written translation, and is to be inserted in the record.

Dr. Arias:

(Reading translation):

"Archibaldo Boyd, Notary Public Number Two of the Circuit of Panama at the verbal request of Guillermo Patterson, Junior, certify: that in the probate record existing in Notary Number Two from the year 1867 up to the present year 1910, there does not exist probate proceedings of Mr. Jose Maria Garcia de Paredes.

"In testimony whereof I issue the present certificate in Panama, to-day, the 27th day of September, 1918.

(Sgd.) ARCHIBALDO BOYD."

(With Seal of Notary No. Two.)

Judge Fairman:

I will suggest that under the present law there are only two Notaries in the city of Panama in whose offices are contained the archives of all previous notarial documents; that under the present law it is incumbent upon all estates in succession to file copy of Court proceedings in the office of either Notary Number One or Two; but prior to the year 1867 it was not incumbent upon the Courts to transmit any copies of probate proceedings to the Notaries Public in the City of Panama.

Mr. MacIntyre:

I offer in evidence these documents.

Judge Fairman:

These have been admitted;—we have no objection.

154 The Court:

They may be admitted.

Mr. MacIntyre:

Handing you Exhibit (g), I will ask you which one of the Jose Garcia de Paredes is here named,—is that the original Jose Garcia de Paredes?

A. No, it is a son of the old Jose Garcia de Paredes.

Q. And the heirs there mentioned are grandchildren?

A. This is the son of Jose Garcia de Paredes de Banera: it may be testified as Jose Garcia de Paredes de Banera, and the heir named is Jose Garcia de Paredes de Velarde, from his mother.

Q. Now, Don Ricardo, you stated in your first examination that you acted as appraisor in some proceedings in the estate of Ramon Garcia de Paredes, how far removed was that Ramon Garcia de Paredes from

old Jose Garcia de Paredes,—was he the son or grandson?

A. He was the son.

Q. It was only in the estate of the son, Ramon, that you acted as appraisor?

A. Yes, in the estate of Ramon Garcia de Paredes.

Q. Ever act as appraisor in the estate of Jose Garcia de Paredes, either the First, or Second?

A. No.

Q. Don Ricardo, can you tell us approximately when the first Jose Garcia de Paredes died?

A. No, I could not.

Q. Can you tell us approximately when the second one died?

A. I could find out from the record.

Q. That is all.

Judge Fairman:

No further questions.

The Court:

That is all, Mr. Arias, both sides excuse you.

At this status of the proceedings, counsel for the plaintiff recalls:

DOMINGO DIAZ, for further examination, as follows:
Judge Fairman:

Your Honor will recall you refused to admit Exhibit "C" on behalf of the plaintiffs on the ground that I had not connected up the matters mentioned in this document with the estate of Jose Garcia de Paredes and Ramon Garcia de Paredes; in view of the testimony of Mr. Arias, I now re-submit Exhibit "C".

The Court:

How did he connect it up?

155 Judge Fairman:

He testified he was the appraisor of the estate, and that the heirs were the parties mentioned in Exhibit "C", and the proceedings in that connection related to the succession of Ramon Garcia de Paredes, who was the son of Jose, and related to the estate of Lo de Caceres which he valued in connection with other things on the property.

Mr. MacIntyre:

We object on the ground that Exhibit "C" is a record of a judicial sale made by Mrs. Catalina Lewis to herself,—that is, she bought it back herself, and that she did that as an heir of Ramon Garcia de Paredes; it is not yet proven who Mrs. Catalina Lewis was, whether she was an heir of Ramon Garcia de Paredes, or whether Ramon Garcia de Paredes was ever seized of the estate of Lo de Caceres supposed to have been sold to his father, Jose Garcia de Paredes, or was the sole heir. The witness Arias having testified that the children of the original Jose Garcia de Paredes were Ramon, Jose, Mercedes, Maria, and Catalina, who had several children: that those were heirs of the original owners of Lo de Caceres, that is, Jose Garcia de Paredes; and there is no evidence before the Court showing that Mrs. Catalina Lewis succeeded to the rights of the heirs or of the children, or was ever seized of the estate.

Judge Fairman:

I am introducing the judicial report, properly authenticated by the Court; it is part of the former record in this case.

The Court:

I know; but each side has a right to object to anything in the other record; if it is properly certified as a record it can go in for what it is worth.

Mr. MacIntyre:

We will object to this document as a record of a proceedings of a court, if it were the proceedings of a Court, in that the signature of the Clerk of the Court, attested by the Judge, are not hereto attached; if it is offered as a judicial record we object on that ground. If it is offered as a deed in the Notary's office, we object to it on the ground that in the deraignment of title the plaintiffs have not shown that Mrs. Catalina Lewis was seized or possessed of the estate of Lo de Caceres to the exclusion of other children of Jose Garcia de Paredes, who were Jose, Ramon, Maria, Mercedes, and Catalina, and their heirs.

Judge Fairman:

I am simply introducing the record of a judicial sale.

The Court:

He is objecting on the ground it is not properly certified under our law.

Mr. MacIntyre:

Our law says: (reading):

156 "Proof of Foreign Judicial Records:—A judicial record of a foreign country may be proved by the attestation of the clerk, with the seal of the Court annexed, if there be a clerk and seal, or of the legal keeper of the record, with the seal of his office an-

nexed, if there be a seal, together with a certificate of the chief judge or presiding magistrate that the person making the attestation is the clerk of the Court, or legal keeper of the record, and, in either case, that the signature of such person is genuine and that the attestation is in due form. The signature of the chief judge or presiding magistrate must be authenticated by the certificate of a minister or ambassador, or a consul vice-consul, or consular agent of the United States in such foreign country."

The Court:

We have to rule on the objection as to our own law how a public document may be admitted in evidence. If it does not come up to that requirement it will have to be certified sufficiently. The question is whether or not under our requirement of the law the certificates are sufficient; if you will take the law as it was read there and then take your record and read the certificate to it, whether or not it is in compliance with our law, then—

Judge Fairman:

If Your Honor please, I think the Court should be willing to listen to some statement made by Dr. Arias in connection with these documents, for he can probably explain this document over the objection.

Mr. MacIntyre:

(Is Dr. Arias now introduced as a expert on the laws of the Canal Zone? ..... To which we object; this document (examining same) has upon it typewritten the Secretary of a Court and the signature, or supposed signature, of a judge of the First Judicial Circuit, Nicanor Villalaz; and is signed in typewritter by

Horacio F. Alfaro,—that is only in typewriting; and neither the Judge nor the Secretary of the Court have certified, nor has the Secretary certified that that is a copy of the proceedings of that Court, nor has the Judge certified to the signature of the Secretary,—we do not know whether that was really a proceedings of the Court.

Dr. Arias:

I think I can explain this matter satisfactorily to the attorneys for the other side who are raising a somewhat technical objection. What is tendered here,—the document offered in evidence by Mr. Fairman in connection with this case,—is a copy of a certificate issued by the Registrar of Public Instruments; it was protocolized in the office of the Notary, so that the last signature is the signature of the Notary which certifies that the original certificate is in his office. When they demand that document should have the signature of the Clerk of the office, but we are tendering the Notarial copy of that copy. It is true, originally there were Court proceedings, and if they care to satisfy themselves they can see the original proceedings in the Notary's archives.

157 The Court:

You are claiming that the Notary has certified to the record?

Judge Fairman:

To the records,—that there a record of that fact in the office.

The Court:

If that is true the original signatures of the officials could not be written on the document,—if the Doctor's statement is correct.

Mr. MacIntyre:

We will admit that the Exhibit is a copy made by a Notary, but we state that our laws say that is not the proper way to prove a judicial proceedings,—by the certificate of a Notary Public; it can only be certified by the Clerk of the Court, and his signature certified by the Judge. We will admit that copy is made by a Notary Public.

Dr. Arias:

If that were so it would be impracticable to comply with the laws; there is a time when the Court in Panama loses control of its own records because the Court is no longer the keeper of the archives.

The Court:

Somebody is in charge of the record; the Court still exists, Brown or Smith who was Clerk or Judge may have died, but the Court still continues; the question now is the proper certifying of the record.

Judge Fairman:

I would like to call your attention to a document which the defendant just introduced; I want to show this Court that it is incumbent for the Judge to turn these documents over to the Notary Public, and it is only through that source that you can obtain these documents.

The Court:

But they are raising the objection that the records themselves are not properly certified.

Dr. Arias:

I do not believe that is the objection raised by him.

Judge Fairman:

No, they are attempting to raise the question we are introducing copies of judicial records not signed by the Judges.

The Court:

Mr. MacIntyre, state your objection.

Mr. MacIntyre:

They have attempted to introduce in order to prove that Mrs. Catalina Lewis sold some lands a judicial proceeding had before the First Circuit Court of Panama in the year 1895; my position is that the only proof of a judicial record or judicial proceedings had before a Court must eminate from that Court, must be signed by the Secretary of the Court, and his signature attested by the presiding officer or magistrate of that Court; then by the Foreign Affairs Secretary, and the Secretary of the Canal Zone. That purported copy is not signed by the Judge of the First Circuit Court of Panama or his Secretary, but by a Notary Public who claims to have a copy of that proceeding. The
158 law says certificates must be certified by the officers of the Court.

The Court:

My understanding was your first objection to this record was that it was not certified by the proper officers in order to be admitted in the Courts of the Canal Zone. Then somebody raised the question you were contending these instruments had to be signed by the officials who executed them. They can simply certify to the records, but the proper officer must certify to the reocrd. I can not read Spanish.

Mr. MacIntyre:

It is all in English at page 28 of the original record in this cause, and admitted without objection. In this particular case we are not standing on a technical proposition, we are trying to prevent them from proving that a woman who never owned the estate had a right to sell it. (Reading):

"Certificate No. 21.

Martin Almanza Caballero,
Sub-Director of the National Archives.

Certifies:

That in the file initiated in Court One of the Circuit of Panama in the month of November, 1894, whereby the voluntary sale of the estate of Lo de Caceres and the establishment "El Algarrobo", belonging to the heirs of Mr. Ramon Garcia de Paredes, was effected, the record of the sale referred to is found on sheets 20 to 23, reading as follows:"

I am stating that this is purported to be a judicial proceeding, and has not been certified to by the secretary of the First Circuit Court, and the signature of the secretary has not been certified to by the Judge or magistrate of the Court as required by our Code:—"Proof of foreign judicial records."

Judge Fairman:

I still make the offer; I will supplement this by the proper certificate, or by law governing the action of the Court; either that, or a certificate of the Court that it is a proper proceeding. If it gets into a position

when you cannot prove, and the laws of the country prevent proof,—but this Court has discretion to admit it.

The Court:

I will hold ruling until you get a chance to get that.

Judge Fairman:

I will endeavor to obtain the necessary law, or necessary certificates to satisfy the Court that we are somewhere within the meaning of our laws, or at least within the bounds of possibility as far as laws are concerned.

Mr. MacIntyre:

My main objection is that he is offering to deraign his title after offering title to Jose Maria Garcia de Paredes in 1832, he now jumps to 1895 and is attempting to introduce a sale made by Mrs. Cataline Lewis without showing who Mrs. Cataline Lewis was, or how she became seized of the lands of Jose Garcia
159 de Paredes in 1832.

Judge Fairman:

That will be connected up; there also appears here a document which will show the relationship between Jose Garcia de Paredes and Ramon Garcia de Paredes. I see in these proceedings in 1894 that Dr. Belisario Porras, the President of Panama now, was attorney for the Paredes family; undoubtedly his evidence would be material to the issues in this case. * * * I am informed that we cannot obtain his presence in Court, as under the laws of Panama there is some prohibitive proposition.

Mr. MacIntyre:
He cannot be summoned or directed by subpoena.

The Court:
I suppose that is true.

Judge Fairman:
Assuming for the purpose of the present proposition that we cannot obtain his presence here, I would like to obtain a statement by means of a deposition with respect to his action in this Estate.

The Court:
I think in the event, that any evidence is competent by agreement of the counsel; if the President cannot come here under good and valid reasons that the Court can hear his evidence, counsel, with the Court reporter, might go to his residence.

Judge Fairman:
That is satisfactory to me, but I do not know as to what he might testify, except he appears in the record as being attorney for the heirs in this succession.

Mr. MacIntyre:
I am very sure that Dr. Porras would object to be sworn, and testify in his residence.

The Court:
That is only on agreement of the parties.

Mr. MacIntyre:
If President Porras wants to come in here as attorney, and wants to be questioned by the parties, he will be subjected to a severe cross-examination.

Judge Fairman:

I will take it up with the gentleman, and I may then ask to take his deposition in some form,—probably in the form in which the Court indicated.

The Court:

In the event he will not come here and take oath to testify, you could take his deposition, * * * but—what's the use of talking, there is nothing before this Court; when application is made to take his deposition, and it comes before the Court then I will act on it.

Judge Fairman:

I will first try to obtain his presence here voluntarily.

The Court:

If you can get his presence here and fix the time, the Court will suit his examination to his con-
160 venience, and we can hear him testify at once.

Judge Fairman:

If I fail in that and he shows an unwillingness to come, I will file a motion to take his deposition.

The Court:

That will be all right, and he can be taken before a notary.

Judge Fairman:

If I can get him into Court that would be the easiest and quickest way.

The Court:

Of course the question of interrogatories would have to be agreed on; there are only two ways of taking evi-

dence,—in open Court and by deposition; if you agree on the interrogatories that is all right,—if not, you will have to follow the rule.

Judge Fairman:

By the afternoon session tomorrow I will be in position to file my motion, my commission and interrogatories; and the other side will have interrogatories. Our provides for the settlement of the interrogatories by the Judge granting the order for the commission.

Mr. MacIntyre:

Of course, Judge Fairman also realizes this deposition taken in Panama can only be taken before the American Minister or consul.

Judge Fairman:

Not necessarily, the Court can appoint a commissioner.

Mr. MacIntyre: (Reading from Code of Civil Procedure):

"If issued to any country out of the United States, or the territories thereof, it may be directed to a minister, ambassador, consul, vice-consul, or consular agent of the United States in such country, or to any person agreed upon by the parties."

The Court:

The easier way to get out of that would be to get Dr. Porras to come into Court, and that would remove all questions.

Judge Fairman:

As a matter of fact I do not know that we will have to have him; I brought it up for the purpose of getting from the other side what they want.

The Court:

It is evident to my mind that the other side does not want his examination at all.

Judge Fairman:

I do not think they do either.

(The hour of noon having arrived, a recess is taken, until 3:00 p. m., when the trial of this cause is resumed).

Mr. MacIntyre:

For the sake of the record, and before we continue, I think we should have an understanding. I think Section 542 of the Code states 'all the evidence taken upon the former trial which is competent and admis-
161 sable shall be used upon the new trial without retaking';—I would like to know if it is considered we are offering on both sides everything we formerly took?

Judge Fairman:

The Code requires that; it is not a case of what is understood. The competency of the evidence will have to arise as it is submitted.

The Court:

So long as you object I have got to rule on your objection.

Mr. MacIntyre:

I just wanted to know if you are offering in evidence all that was taken at the former trial, subject to objection, or competency?

Judge Fairman:

I may do that, but I do not know yet; a great deal of that is in the nature of rebuttal; it will depend on you.

Mr. MacIntyre:

They had some witnesses here before whom they called, and who on cross-examination gave evidence for us, they very likely will not call them at this time.

The Court:

That is to your disadvantage.

Mr. MacIntyre:

They introduced it, and we cannot object to its competency.

The Court:

My findings will have to be on competent evidence; if I make any findings not on competent evidence it will be disregarded by the upper Court.

Judge Fairman:

As far as Mr. MacIntyre's idea is concerned, the Code provides for it in advance, and as he submits his evidence I can examine it and make any objections.

Mr. MacIntyre:

I would make a motion for the sake of the record that all of the testimony for both parties formerly recorded in the former trial and recorded in the printed record which went to the Circuit Court of Appeals be considered at this trial at this time, save such parts as were incompetent and ruled on by the Court.

The Court:
Is that agreed to by the parties?

Judge Fairman:
The motion is practically in accordance with the law, that is all.

Mr. MacIntyre:
We agree that is the law.

Judge Fairman:
I would like to put this provision in there: that any witness who testified at the former trial on either side orally, may be recalled at this trial for further examination by either party, if the witnesses are available.

Mr. MacIntyre:
I will agree to that.

The Court:
Now, all parties agree to this stipulation?

Judge Fairman:
Yes, sir.

Mr. MacIntyre:
Yes, sir.

162 The Court:
That is all right. I will allow you to call any witness you have had before,--either side. This time we want to try this case so that we may get somewhere with this case; we might arrive at a wrong conclusion, but hope we may arrive at a conclusion reached

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by the evidence. My conclusions of law will have to follow the findings, and if I make any mistake in the law—so, I have to look out for findings as well as law.

Mr. MacIntyre:

May it please Your Honor: Don Ricardo Arias this morning identified our Exhibit "J" and "L", formerly introduced in this case, as being amongst the Quintero papers which he delivered to Mr. Patterson.

Judge Fairman:

He recognized one of them.

Mr. MacIntyre:

Which one?

Judge Fairman:

The deed.

Mr. MacIntyre:

He recognized both of them.

Judge Fairman:

I have had to recall Major Malsbury in connection with the map.

Mr. MacIntyre:

We wish to introduce in evidence Exhibit "L."

Judge Fairman:

We will take that up as soon as the Major is through.

Mr. MacIntyre:

I want to introduce Exhibits "J" and "L" introduced in the former record, and translation thereof given, proper authentication of these deeds being also fur-

nished,—deed "J" and "I" from Noriega to Rivera, and deed "L" being the deed to Quintero.

The Court:
These are the only things he said he recognized.

Judge Fairman:
One deed is all he recognized.

Mr. MacIntyre:
I wish to introduce the deed which Don Ricardo Arias gave to Guillermo Patterson,—at page 84 of our record.

Judge Fairman:
We object; first, on the ground that the instrument in question has not been identified; second, on the ground that instruments mentioned as "J" and "L", as set forth in the previous record of this case, are in substance and fact a record of a judicial proceedings, and as such have not been properly certified.

The Court:
I think their objection is well taken; that that is not sufficiently proven up yet.

Mr. MacIntyre:
It is proven that it is the paper Mr. Arias gave to Mr. Patterson.

The Court:
You will have to lay a better foundation.

163 Mr. MacIntyre:
It speaks for itself; it is certified as a deed by the Notary, and certificate accompanies it, and is in the record.

Judge Fairman:
It is a citing of a judicial proceedings.

Mr. MacIntyre:
It is a warranty deed.

The Court:
You could not introduce it until you lay the foundation.

Mr. MacIntyre:
Exception noted. We introduce in evidence paper marked "J" identified by Mr. Ricardo Arias as one of the deeds of Mata Redonda which he presented to Mr. Guillermo Patterson at the time Mr. Patterson became the owner of Mata Redonda, and with that we offer the translation at page 84 of the record, and proper certificate of the Secretary of Foreign Relations, and the Executive Secretary of the Canal Zone, that that is a copy of the original copy in the archives, and all signatures properly identified and certified.

The Court:
Does your certificate cover all that you talk about?

Mr. MacIntyre:
The certificate is not attached, but refers to the deed by name and number.

The Court:
What you say and what the papers show may be two different things.

Mr. MacIntyre:
The instrument is known as Number 300, and signed by Marcelino Lopez.

The Court:
Why is that separated from the other documents?

Mr. MacIntyre:
It is a blanket certificate covering the different signatures it certifies to.

Judge Fairman:
We object to that as being purely incompetent.

Mr. MacIntyre:
It mentions the number of the document and the date of it; these documents when first presented were all fastened in a package, and taken to the Secretary of Foreign Relations, and a certificate given for each document.

The Court:
But there is nothing in the record what you say; what you say how this is certified does not appear in the record.

Mr. MacIntyre:
It is part of our original record, page 231.

Judge Fairman:
We object to it on the ground it is incompetent.

The Court:
It is objected to now.

Mr. MacIntyre:
I insist on a ruling on that.

The Court:
I will sustain the objection.

Mr. MacIntyre:
Exception noted.

The Court:
If a man is given opportunity to make proof and then does not take it, he will be given an exception.

164 Mr. MacIntyre:
The certificate offered contains all the formalities required by our Code of Civil Procedure for certifying the signature of the custodian of a record.

The Court:
That is what you say.

Mr. MacIntyre:
It shows for itself.

Judge Fairman:
If Your Honor please, I will recall Major Malsbury.

The Court:
Proceed with your witness.

O. E. MALSBURY, is thereupon recalled by the plaintiffs, and examined further as follows:

Direct Examination.

By Judge Fairman:
Q. Making further reference to Plaintiffs' Exhibit "2", the same being map of the estates of Lo de Caceres and Mata Redonda. If you will remember, Major, the other day in your examination and identification of

this map, you stated that by reference to deeds or judicial proceedings you could draw the lines of the property in dispute upon this map; is that correct?

A. If I had a lot of time I think I could do it.

Q. Have you had occasion since that examination to refer to deeds or documents in regard to these lines?

A. I have.

Q. Pursuant to such reference have you placed upon this map lines in accordance with judicial proceedings?

A. Partially.

Q. I exhibit you the map at this time and ask you to state if the lines which you have indicated on there show, first: the old estate of Lo de Caceres, and the estate of Mata Redonda, whether they are placed there in accordance with the deeds and documents and judicial proceedings presented to you, referring here (indicating on map) to Mata Redonda, and here (indicating) to the old estate of Lo de Caceres?

A. I cannot answer that question all in a 'block'.

The Court:

'According to deeds furnished him',—that is too broad; we do not know whether the deeds furnished him are correct or not; let him point out and indicate from what source he drew the lines there, and then there is opportunity for objection if his source of information is wrong.

Judge Fairman:

Refer to the map indicated by yellow, green, and black lines. (Continuing): Commencing at the point designated on the map as the Chapel Rock, and also known as Mata Redonda, thence to the Platanar River, following the said river to its source at the junction with the Palangana River; thence in a straight line to the cross-

ing of the old trail on the Rio Hondo; thence from there down stream on the Rio Hondo to its junction
165 at the place called Pan de Azucar, this is in a straight line to a point called Cerro Bruno Cerda; thence in a straight line to a hill called Sonsonate; and thence to another hill called Mocambo; and thence back to a point of beginning; and ask you to state whether that was placed in there in accordance with the Miro Title of 1832?

A. It was, in accordance with my interpretation and Mr. Diaz' interpretation.

Q. Referring to the estate of Mata Redonda; commencing at the same point at Chapel Rock; thence to the Platanar; then down to the Palangana River to its junction with the Cardenas; thence following the Cardenas River to its source; and thence back to the Rio Hondo, and Chapel Rock; is that your interpretation of the Mata Redonda estate?

A. No.

Q. That is not?

A. No.

Q. Referring again to the map, and commencing at a point at the source of the Rio Hondo, and on the inside bank of the Rio Hondo, and going down stream to the junction of the Rio Hondo with a small stream at the Pan de Azucar, and then to a point called Cerro Bruno Cerda; thence to a hill called Sonsonate, in a stragiht line; and thence to Mocambo in a straight line; and thence in a straight line from said Mocambo back to the headwaters of the Rio Hondo;—is that your construction of the ancient Crown grant of 1736?

A. It is the same as the other.

Q. Is that in accordance with the old description contained in the Crown grant of 1736?

A. It is in accordance with that description in my interpretation and Mr. Diaz' help.

Q. Are the points which you have indicated on this map by these lines, referring particularly to the Chapel Rock, Rio Platanar, Rio Hondo, Cerro Bruno Cerda, Mocambo, and Sonsonate,—are these lines in the proper location on this map?

A. Not all.

Q. Are some of these places, called Sonsonate and Mocambo, on different places?

A. No, these are in.

Q. Is the Rio Hondo in a different place other than that shown on the map?

A. No.

Q. Is the Chapel Rock in a different place from that shown on the map?

A. I placed that mark from the map Mr. Diaz had; I know, however, it is approximately correct as I have been over the ground.

Q. Then in so far as this map forming a basis of the general situation, all places with proper names, and the lines which you have drawn connecting
166 these various places, the lines are correct?

A. As far as I know, yes; I have had to take the names of some hills from Mr. Diaz.

Q. And from other information given you?

A. Yes.

Q. But using your interpretation of the information given you and applying that to the arbitrary locations given on this map, these locations and descriptions are correct?

A. Yes, sir.

Q. That is all.

Cross-Examination.

By Mr. MacIntyre:

Q. How did you get this line,—indicating line on the map from Mocambo Hill to the ruins of the Chapel?

A. Just what do you mean by that?

Q. You must have had some information, or some source from which to draw that line on the map.

A. The deed calls for a straight line from Mocambo to Mata Redonda.

Q. Now, in placing these lines, which you say agree with the description of Lo de Caceres according to deeds shown to you, will you kindly indicate how you found this line from the source of the Rio Hondo on this estate to a "stream in the neighborhood of Pan de Azucar",—how did you find that line?

A. That part is a little too much for me; I will have to call for help and ask Mr. Diaz' interpretation.

Q. Then this line on the map is Mr. Diaz' interpretation, and not yours?

A. Yes, sir; that particular line.

Q. And "from said stream describing a straight line to Matasnillo"?

A. Matasnillo River lies in between, and a straight line from the quebrada near Pan de Azucar hill would have to cross the Matasnillo River in order to get over to this hill, Cerro Bruno Cerda.

Q. Where did you see the name "Cerro Bruno Cerda" in any of the documents?

A. I did not see it; I do not remember seeing it.

Q. Who told you to put that line up to that place?

A. Mr. Diaz. But I may have seen that in the documents,—I may have. I made this map up partly with the deeds and partly with the help of Mr. Diaz and from

all the things I saw in the documents; but if I had a description of it, it would be a much better way and then I could tell exactly.

The Court:

I think the witness is correct; he made a part of this map from what somebody told him,—that is not evidence. Now, the witness says if he had the description he could verify it to see whether it was right or wrong; but this will not help me a bit, —this information what somebody else told him. This description has got to be made from record evidence or established points.

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Mr. MacIntyre:

Now, I will hand you, Major Malsbury, plaintiffs' exhibit "A", purported to contain their original Crown grant from the Crown of Spain, together with translation prepared by the official interpreter of this Court, and will ask you to indicate to the Court this description just how you would put the lines on that map. Remembering that it states that "all line on this—the East—side of the Rio Hondo,"—the Panama side. (To Counsel for plaintiffs): Is it admitted that the statement "on this bank" means the East bank?

Judge Fairman:

It certainly is,—on the old Crown grant.

Mr. MacIntyre:

Now, explain to me how you got this line on the West bank?

—pointed out to me by Mr. Diaz,—I drew a straight line on this map, to a "stream in the neighborhoood of Pan de Azucar"; following down to the Rio Hondo to a

stream in the neighborhood of Pan de Azucar which was pointed out to me by Mr. Diaz; and from "said stream describing a straight line to Matasnillo". From the junction of this (indicating on map) little quebrada —pointed out to me by Mr. Diaz,—I drew a straight line crossing the Rio Matasnillo; and "following said straight line until opposite the source of a small stream which empties at the Old City",—with that description I continued the straight line of the quebrada mentioned in the description here (indicating on map), and pointed out by Mr. Diaz. The stream is actually on the ground because I think it is located on the survey. "From the source of said stream following a straight line up to the Sonsonate Hill",—Sonsonate Hill is located on the map, and I could therefore arbitrarily draw a straight line to Sonsonate; Gallinazo Hill was left out. "A straight line to Sonsonate Hill to Mocambo" is here (indicating on map). "The same line descends to the source of the Rio Hondo" is here. (Indicating the green line on the map.)

Q. Now, Major Malsbury, if the correct translation in the Spanish grant is: "from thence to the hills of Sonsonate and Gallinazos, and from thence to Mocambo, and then back the same line'—que baja le misma linea,—where would your line be then? If the translation is "a straight line up to the hill of Sonsonate and Gallinazos, and from there to Mocambo down the same line until it reaches the headwaters of the Rio Hondo"?

A. I interpret that "same line" to mean the same line,—that is, the same boundary line,—going down to the source of the river.

168 Q. When it speaks of the "line" here, this line (indicating on map) is not the same line, —from Mocambo to the Rio Hondo is not the same line as from Sonsonate to Mocambo?

A. No, except it is the same boundary line.
Q. That is all.

Re-Direct Examination.

By Judge Fairman:

Q. Take Mr. MacIntyre's interpretation,—if you went from Sonsonate to Mocambo, and you had all sides of your property except one, would you close that line by going back to Sonsonate?

A. No.

Q. But if it says, admitting his interpretation "going back the same line", or any other line, to the source of the Rio Hondo, where would you go from on that proposition,—back to Sonsonate or back to the headwaters of the Rio Hondo?

A. In order to close the boundary line I come back to the starting point from Mocambo.

Q. In other words, to adopt the other interpretation would not be in accordance with any idea of surveying or description of property?

A. No,—evidently if that part of it is right the rest of it would mean closing out to the starting point.

Q. That is all.

Re-Cross-Examination.

By Mr. MacIntyre:

Q. Major, when you first testified you said in accordance with your interpretation of the title and your survey of Mata Redonda is as you originally described; from the point called Pena Hueca; thence to Cerro Algarrobo; thence to Cerro Vidrio; and thence to Cerro Gordo; thence to the headwaters of the Cardenas; thence down the Cardenas to the Palangana; and up the Palan-

gana to the junction with the Platanar, to its headwaters; and from there back to the Pena Hueca?

A. That is correct, in accordance with my interpretation of the description of the Mata Redonda as furnished me by the Law Department.

Q. You also stated in your first examination on this trial that you could not make the Lo de Caceres lines harmonize with the adjoining estates if you admit Mr. Diaz' claim that the lines run down to here (indicating on map)?

A. No, I could not.

Q. Will you explain again to the Court by making the boundaries of the other estates harmonize
169 you have drawn the Mata Redonda as you have on this map?

A. The description furnished me of the surrounding estates, and also of Mata Redonda, harmonize with the boundary lines in accordance with the survey which we made at the time in 1913, that is, the Mata Redonda estate called for Lucha Franco on the North; Guanabano estate on the West; San Jose on the South; and Lo de Caceres; were all given as boundary lines of the Mata Redonda. I only had one description of Lo de Caceres, and that description was not a good one, and I could not make a boundary line with their description. The way the lines are drawn on this map with the original the lines did not harmonize; however, I did not have all the descriptions of Lo de Caceres at that time.

Q. How many descriptions of Lo de Caceres did Mr. Diaz give you this last time?

A. They were taken from the record; one he called the "Crown Grant of 1736"; another one which he styled the "Miro Title of 1832", and the third one which he called the "Judicial Sale of 1895".

Q. Did he tell you that judicial sale had been admitted of record in this Court?

A. No.

Q. What are the lines drawn on there according to the alleged judicial sale; what are its descriptions of Lo de Caceres?

A. I do not know what you mean.

Q. Did Mr. Diaz show you a description of Lo de Caceres there, what he alleged to be a judicial sale made in 1895?

A. Yes.

Q. Can you indicate that on this map?

A. This line shown in yellow. (indicating yellow line).

Q. Does that agree with the description he gave you with the Crown Grant of 1736?

A. No, not exactly; it is the same in a good many of its directions.

Q. Is there a difference between those two descriptions of Lo de Caceres and the description in the Mito title of 1832?

A. The Miro title of 1832 more nearly corresponds to the judicial sale.

Q. I will call your attention to something you have put on this map, calling it the "Old Porto Bello Trail"; where does that trail go? Where does it lead?

A. (Indicates on map).

Q. How did you ascertain that was the old Porto Bello trail?

A. It is shown on all the old maps.

Q. Now, you have indicated on this map a place called the New Porto Bello Trail to Panama; will you kindly follow that on the map with your pencil?

A. (So indicates).

Q. Where does that trail stop?

170 A. Here. (indicating).

Q. Where does it end?

A. At Porto Bello.

Q. You originally called that trail the "Trail to Mocambo"; where did you get data that called it the "Porto Bello Trail"?

A. This may go to Porto Bello; you just asked me to indicate on this map the New Porto Bello Trail,—I may get a little mixed up as I do not remember how these trails run in my mind; the old trail is here (indicating on map), and there is still another further over; I may be mistaken this is not the Porto Bello trail, and that this is the Mocambo trail.

Q. Isn't it a fact that coming in on the new Porto Bello trail, when they get near the Mocambo they take the old trail to Porto Bello?

A. I do not know; they use both of those trails; this line, I understand, is the Porto Bello trail, and the one to the west is known as the Mocambo-Loma Larga trail; however, they can get to Porto Bello on that trail too.

Q. Are there any paths through these meadows to Loma Largo and Mocambo?

A. Yes, sir.

Q. How far does that trail go through there?

A. I do not know; I have only been on that trail to Bocas. I have come up from Bocas now, and one of my men walked in last week to Panama, and I am quite sure he came in on this Mocambo trail; but the old Porto Bello trail is higher up the river.

Q. When you were on the land, did you see traces of any fences along the old Porto Bello trail?

A. Yes, sir.

Q. How far along that trail did you see them?

A. As far as I went; I went nearly as far as the Quebrada Tesorera.

Q. As indicated on this map?

A. Yes, sir.

Q. And up to there you found fences along the Porto Bello trail?

A. Not in some places, but traces where it was were still visible.

Q. On the portion of the Porto Bello Trail which ran from the Reservation Line of the Canal Zone to a spot near Monument 87 of the Canal Zone boundary, did you find any traces of a fence on the Lo de Caceres side of that trail?

A. Not that I remember; it was only on one side at that time when we made the survey in 1913.

Q. In 1913 did that fence along the Porto Bello trail have the appearance of being a new or old fence?

A. Old fence.

Q. When you say "old" how old do you mean, five, ten, fifteen, twenty years, or more, or how?

A. I could not tell; the posts were old and the fence down in places; it must have been there twenty years, but how many years exactly I do not know.

171 Q. When you made that survey, Mr. Malsbury, did you find a gate leading into the Mata Redonda estate?

A. Yes.

Q. Will you kindly locate on the map the place where you found that gate?

A. I found two; one down near the Pena Hueca and one further to the east on the Mocambo trail; the one at the point marked "A" and the other one marked "B" on this map. (marking same).

Q. You have here on the map, Major, a place marked "Old Trail", will you kindly state what evidence of that trail your found?

A. Leaving the Chapel Trail near the present crossing, it follows the creek San Jose up to the crossing on the Rio Hondo to the place marked "Paso Real Antiguo"; from there to continues along the La Gloria fence to the Mata Redonda. I found traces of it, but it was not very distinct; it was so indistinct it was hard to follow, but traces of an old trail could be found.

Q. That trail look as if it had been very old?

A. I could not tell, but it had been used sometime long ago.

Q. In getting from the spot known as Pena Hueca following the old trail to the chapel, where did you cross the Rio Hondo?

A. At the point marked "Paso Real Antiguo."

Q. Will you tell the Court what are the physical characteristics of the spot marked Paso Real Antiguo on the map; what does that place look like, if you remember?

A. On the up-stream side of the Paso Real Antiguo there is a pool of water and just at the Paso Real Antiguo it is more or less blocked up. I have heard that years ago the water flowed under the Paso Real and there was no channel there.

Q. Is there a rocky formation there at the river?

A. Yes, there is a sort of soft stone.

Q. Major, you actually have been on the ground at the head of the Quebrada called the Carrasquilla?

A. No.

Q. Then that point is not located by your own survey?

A. No, from a Military survey.

Q. These points originally located on this base map were located from your own survey?

A. Yes.

Q. And those which have been added by pen and ink were secured from another survey made by the Military Department of The Panama Canal?

A. Not all.

Q. You have not made them from your own field notes or under your supervision?

A. No.

Q. I move all that part of the map not made
172 by Major Malsbury from his own survey and from his own field books on the ground, be stricken.

The Court:

All that is on this map which he has not drawn from his own work, or knowledge, or information, cannot be considered by the Court, but if he confirmed anything to be correct—part of this he says he did not draw and cannot testify that it is correct,—that part I cannot consider, but if there is any part he has indicated on that map which he knows to be true though he did not draw it and testifies it is correct, that part I could not eliminate.

Mr. MacIntyre:

I object to any map made by a survey by some party who is not now in Court, and given as hearsay evidence by Major Malsbury from some third party's work.

The Court:

I thought you understood what I said.

Mr. MacIntyre:

I believe they are trying to offer this map in evidence yet.

Judge Fairman:
This is Exhibit No. "2".

The Court:
This map is already introduced in evidence.

Mr. MacIntyre:
A. Yes, it was introduced before this was all put in evidence.

The Court:
I think I will try to make myself clear again. Anything on this map which the surveyor has not drawn and cannot testify is correct, the Court can not consider, but anything else he put on this map which he swears to be correct and knows of his own knowledge to be correct is admissible.

Re-Direct Examination.

By Judge Fairman:
Q. Now, Major, in putting on this point,—the source of the Quebrada Carrasquilla,—you had access to the map prepared by the Military authorities of the Canal Zone?
A. Yes, sir.
Q. And in putting this on the map could you superimpose to say that it is correct?
A. I can say that that Quebrada is correct.
Q. Then this stream is absolutely correct?
A. The Military survey I have had charge of myself part of the time, although not this particular point; the Military survey is not hearsay; it is a good survey.
Q. The location of the stream is absolutely correct according to that survey?

A. To the best of my knowledge.

Q. Referring to the Rio Matasnillo,—did you place that on this map from the same Military survey?

A. I did.

Q. Will you state as to the general locations,
173 are they correct as placed on this map?

A. I can certify as to the various branches of that stream, but which is the main branch of the Matasnillo I do not know.

Q. But these branches are correct according to the survey, of your own knowledge?

A. Yes, sir; that survey is correct.

Q. These other points, Sonsonate, Mocambo, and Chapel Rock,—you know of your own knowledge and placed these points on the map when you prepared it?

A. All but Chapel Rock, and that is approximately correct.

Q. It is in its correct position on this map in relation with the other points shown there?

A. Yes.

Re-Cross-Examination.

By Mr. MacIntyre:

Q. Major, these lines placed on this map (indicating Exhibit "2") in black ink are only correct provided the Military survey which was made by you is correct?

A. Yes.

Q. And if the Military survey is in the least degree wrong, then those lines are wrong?

A. No,—I would not say "in the least degree", they might be wrong to a small extent, but they are not sufficiently wrong in comparison with the scale of the map, and would be correct for all practical purposes.

Q. But you yourself were not with the surveying party that made these locations?

A. No.

Q. Major, again I will ask you, remembering that the grant of lo de Caceres describes all the land as being on the east of the Rio Hondo, how do you locate this piece of land here to the west of the Rio Hondo?(Indicating).

A. The descriptions as I read them, none of them said east; it said "this side".

Judge Fairman:

I think you should refer in asking questions whether you refer to the Crown Grant of 1736, or the Miro deed of 1832.

Mr. MacIntyre:

Remembering that the description of Lo de Caceres estate states that all the land lies on the east bank of the Rio Hondo, how do you reconcile that this large piece of land here to the west of the Rio Hondo—

Judge Fairman:

(Interrupting) It does not state it is all on the east.

Mr. MacIntyre:

It says "all of which lands lie on this side of the Rio Hondo".

Judge Fairman:

In the Crown grant of 1736 we do not claim anything on that side.

Mr. MacIntyre:

All three points run from the source of the Rio Hondo "on this side".

Witness:

Of course, the boundary line of 1736 does not go west of the Rio Hondo it may be a little west, but not on the other side,—the green line is all on that side.

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Q. If the real meaning of the grant is that this line runs to the source of the Mocambo River, then turns in front of Gallinasos Hill, and from thence to the Mata Redonda, or Paso Real Antiguo, that would correspond with all the descriptions of the Mata Redonda estate and all adjoining properties, would it not? If this line (indicating on map) runs down here, from Sonsonate Hill to Mocambo, and returns in front of Sonsonate Hill to Gallinasos, and thence returning to the starting point?

A. In the main, it would agree with the description of the estate as shown on my map.

Q. I am still going to object to this map, as it has been changed since being introduced in evidence.

The Court:

If this witness cannot adopt that map and swear that it is correct, I cannot consider it; you have not asked him enough to know yet. Ask him if he can swear it is correct as to his own knowledge. I cannot consider it, as you have not asked him these questions.

Mr. MacIntyre:

Can you swear of your own personal knowledge that this creek,—the Carrasquilla Creek,—is right here, or from information derived from someone else?

A. From a map.

Q. Can you swear of your own knowledge that this little creek, indicating a branch of the Matasnillo, runs to the south of the hill of Pan de Azucar?

A. No.

Q. Can you swear this stream, being a branch of the Rio Hondo, runs to the north of Pan de Azucar?

A. No.

Q. Can you swear these two branches of the Matasnillo are right here as indicated on this map?

A. No.

Q. Can you swear of your own knowledge that this line running from the junction of—indicating on the green line a quebrada without name—crosses the Matasnillo at the place you have indicated?

A. Yes.

Q. If a similar ditch ran into the Old City and happens to be a half mile further to the east than where indicated by Mr. Diaz, would that change the indication of this green line on the south?

A. Yes, it would.

Q. And you only have Mr. Diaz' information for the fact that that is the place where the line was supposed to run?

A. Yes, sir, that that is the quebrada that is meant.

Q. Can you swear of your own knowledge that that quebrada really exists as shown on this map?

A. No.

Q. Can you swear of your own knowledge, in-
175 dependent of what you have seen on someone else's survey that any of these points exist as shown in black ink?

A. Yes, some.

Q. Which?

A. I know these (indicating) and I know where it crosses the Sabanas Road; I know there is a hill where Mr. Diaz' house is about in the locality in which I have shown it, called Colorado by me on the map; there is

also a big hill here on the Carrusquilla, Cerro Bruno Cerda.

Q. Do you know that it is the same as shown on the map?

A. No.

Q. Now do you know exactly that this hill, called Cerro Colorado, is exactly the distance as indicated on this map from the trail?

A. No.

Q. Nor do you know the exact confines, limitations and locations of the hill called Cerro Bruno Cerda?

A. No.

The Court:

All such parts, lines, measurements and surveys contained on the map,—Exhibit "2", to which the witness is unable to swear from his own knowledge and investigation are correct, will be eliminated from the evidence.

Re-Direct Examination.

By Judge Fairman:

Q. This is the old Porto Bello trail lying a little to the south and west of what you have indicated here as Barre Colorado?

A. Yes.

Q. Now, can you indicate by means of a rule the approximate distance from this hill as you have indicated it, to where that trail is?

A. The scale being 1 to 10,000,—about seven or eight hundred feet.

Q. I meant the nearest point to the southwest of the hill?

A. Yes, sir.

Q. Now, Major, among other things, you have a place on here, how did you know that place was Pena Hueca?

A. It was pointed out to my surveying parties by the people living there.

Q. Who were among those parties?

A. All people.

Q. Anyone by the name of Patterson indicate it to you?

A. Yes, I have no doubt he was also there as he lived close to the place.

Q. Now, you have indicated on this map a trail leading to the Chapel from a point at the corner of the La Gloria estate, marked "A", did you have occasion to examine this trail leading to the old Chapel?

A. Yes, sir.

Q. And as indicated on here that trail exists?

A. Yes, sir.

Q. That is supposed to be the trail to the old estate of Mata Redonda, is that correct?

A. All I know it is the trail to the Chapel.

Q. I will ask you to indicate on this map
176 where you cross the Rio Hondo in getting from Panama to the Old Chapel on that trail?

A. At a point marked "C" on the map.

Q. Referring again to point "A" and the place called Paso Real Antiguo, I will ask you to state by taking the trail from point "A" to Paso Real Antiguo, and from thence to the junction of some trail that is designated on here as the Chapel New Trail, how much farther it would be on that road than right from point "A" following the boundary line from La Gloria estate?

A. About twenty per cent further.

Q. I will ask you if you are acquainted with the contour of the land on both trails?

A. I am.

Q. Which would be the best trail to take in any event either from point of distance or difficulty of travel?

A. Travel,—the new trail would be the better one; and from distance, the new trail is shorter. The new trail is a little 'heavier' than the old one, but the new one would be the better.

Q. In comparison with the old trail it would be the better?

A. Yes.

Q. That is all, Your Honor.

Re-Cross-Examination.

By Mr. MacIntyre:

Q. Mr. Malsbury, prior to the year 1899, which was the better way to go to the old chapel, by the new trail or by the old trail?

A. I could not say.

Q. After the fence was built across the old trail in two places, which was then the better way to go to the chapel?

A. The new trail.

Re-Direct Examination.

By Judge Fairman:

Q. If the situation had been reversed and the fence placed across the old trail, which would be the better trail?

A. The new.

Q. If the fence across the new trail, which would be the better?

A. If you go on foot the new trail would be the better, but by wagon the old trail is the better grade.

Q. That is all.

Mr. MacIntyre:

That is all. We wish to withdraw from the record Exhibits "G" to "V" for the purpose of taking them out to have the Notarial certificate put on each and every one of these certificates.

177 The Court:

They may be withdrawn for that purpose.

Judge Fairman:

To which there is no objection.

(The hour for adjournment having arrived, Court is now adjourned until 9:00 a. m., April 21, 1921, at which time the trial is resumed.)

FLORENCIO HARMODIO AROSEMENA, is now called by counsel for the plaintiffs, and having been first duly sworn, is examined and testified as follows:

Direct Examination.

By Judge Fairman:

Q. Please state your name?

A. Florencio Harmodio Arosemena.

Q. Where do you reside?

A. In Panama.

Q. What is your profession?

A. Civil Engineer.

Q. Of what school or schools are you graduated?

A. Munich, Germany.

Q. How many years have you practiced your profession?

A. From 1893.

Q. In the exercise of your profession, have you ever had occasion to survey any part or portion of the estate known as Lo de Caceres?

A. Yes.

Q. How long since you made that survey?

A. I should say five years ago, more or less.

Q. Did you ever have occasion to survey a stream near what is called Bruno Cerda?

A. Yes.

Q. Did you ever have occasion to survey a place called Barro Colorado?

A. Yes, sir.

Q. In the course of your surveys did you locate the Rio Matasnillo?

A. Yes, sir.

Q. I exhibit to you here a map, plaintiffs' Exhibit No. "2", which has upon it a scale of 1 to 10,000, and ask you if you can locate upon this map the stream or places called Carrasquilla, Barro Colorado, and Rio Matasnillo, and state whether or not the various positions on this map are correct?

Mr. MacIntyre:

To all of which we object, for the following reasons: all of the places mentioned by counsel concerning which the witness is now questioned are places written
178 in black ink upon that map, which the expert who made the map, yesterday testified he could not testify as to his own knowledge, and which this Court ruled out of evidence, therefore those places marked in black are not before this Court in evidence and cannot be referred to by any witness, nor made part of any exhibit.

The Court:
I will have to sustain the objection to that.

Judge Fairman:
(To Reporter): Then strike out the question. I will go a little slower.

Q. In accordance with your previous surveys, Mr. Arosemena, have you had occasion to locate the creek called Carrasquilla and the hill called Bruno Cerda?

A. Yes, sir.

Q. Have you located that stream and that hill by means of your personal surveys?

A. Yes.

Q. Have you had occasion through your personal surveys to locate the hill called Barro Colorado?

A. Yes, sir.

Q. Have you had occasion through your personal surveys to locate the stream called Rio Matasnillo? Referring to plaintiffs' Exhibit No. "2" at a point thereon marked "F," the same being the corner of the Canal Zone boundary line with the Republic of Panama?

A. No.

Q. Referring to the place called the Porto Bello trail, have you ever had occasion to survey or locate that trail?

A. I have had no occasion to survey that trail.

Q. Have you had occasion to locate the village called Pueblo Nuevo?

A. Yes, sir.

Q. Have you, from your personal surveys, located the village called Pueblo Nuevo?

A. Yes, sir.

Q. Referring to Pueblo Nuevo shown on this map, and the stream called Carrasquilla, I will ask you to

state whether or not to your personal knowledge the distances and directions shown on this map are correct?

Mr. MacIntyre:

To which we again object on the same grounds.

The Court:

You have no grounds in there at all,—the question was stricken.

Mr. MacIntyre:

We object to the witness' attention being called to any of the places mentioned by the plaintiffs' attorney as the creek called Carrasquilla, or hill called Bruno Cerda, or any other of the points on that map indicated by black pen marks, for the reason that the witness who introduced and made this map stated he did
179 not survey it and had no personal knowledge of those locations, and the Court excluded from the evidence and ruled out all parts of that map made in black ink.

The Court:

Now, Mr. MacIntyre, is the plaintiff bound only by the statement of the witness who drew this map that he did not know whether those lines were correct, or can they call another witness to show those lines are correct?

Mr. MacIntyre:

May it please the Court; what your Honor has just said and the present examination shows the evil of allowing an expert of the Court to be tampered with; those lines in black ink actually exist on that map because they were put there at the request of the plaintiff

after that map was put in evidence. However, your Honor ruled upon the testimony of the engineer, that they should be ruled out even though they had been put on by him, therefore from a judicial standpoint that map is blank as to where those lines are. Our objection is to the witness' attention being called to things which technically are not in evidence, although physically they are there.

The Court:

Is the plaintiff to be bound by the statement of one witness, or can they show that these marks on these maps are correct by some other witness who knows; I ruled it out only so far as that witness was concerned. Now, supposing they have witnesses who say they know?

Mr. MacIntyre:

The only proper way is to give the witness a correct map on which these black lines do not appear, and ask the witness to locate these places on that map. (Indicating another blue-print or map.)

The Court:

That map is not in evidence.

Mr. MacIntyre:

This is one of the official maps,—a copy of the map made by Mr. Malsbury; the proper way for the witness is to make his own map from the survey.

The Court:

You have a right to cross-examine him to see whether or not it is incompetent, and I will permit you to cross-examine him before I rule on the question.

Cross Examination.

By Mr. MacIntyre:

Q. Mr. Arosemena, in the previous trial of this case did you not testify that you had been on the property of Lo de Caceres and Mata Redonda about three months before that trial?

A. Yes, sir.

Q. At that time you went upon the property
180 as an expert appointed by the Panama Courts?

A. Yes, sir.

Q. At that time you made no survey with instruments, but walked around the property and looked at it?

A. On Lo de Caceres.

Q. Did you not testify that was the first time you were upon that property?

A. On Lo de Caceres.

Q. Now, Mr. Arosemena, at that time did you have occasion to take a theodolite, or other surveying instrument, or transit, and make a survey of that property?

A. When I was delineating the land of "El Club."

Q. When was that survey made?

A. About five years ago; I put a line between Mr. Icaza and Lo de Caceres, and so I had occasion to go on those hills.

Q. Do you have your field notes you took at the time of that survey?

A. No.

Q. Did you make a copy of that survey?

A. Yes, sir.

Q. Do you still have that map?

A. I gave it to the owner.

Q. Is your memory so good that you could draw at this time a correct map as to scale, putting on that map all those points you put there five years ago?

A. I will try it.

Q. I will hand you a blank map which does not contain those lines, purported to be a map of the same land, and ask you to take this map and locate on here the Rio Matasnillo? (Handing witness the map in question.) From the point where it crosses the Sabanas Road up to Pan de Azucar hill?

A. I could not put it exactly.

Q. I will ask you to locate from memory Cerro Bruno Colorado,—exactly from memory?

A. It is more or less here (indicating on map); I could not put it exactly,—that is impossible for me. That question is impossible to answer.

Q. Will you put it as near as you think?

A. That is not the way to ask an engineer for accurate—

Q. (Interrupting) You could not swear from your memory where those places are?

A. Yes, sir; I could.

Q. Not from your own knowledge?

A. Yes, sir.

Q. Will you kindly place upon that map the approximate location of Cerro Bruno Cerdo?

A. More or less here (indicating point marked "X" on map.)

Q. Then, from your memory of your survey made five years ago you could not tell about where these locations are?

A. I can show you the places where they are if I had the places on a map.

181 Q. I can do that myself; but, from your memory can you show me where the Matasnillo River crosses this Sabanas Road,—from memory?

Judge Fairman:

I think you are taking advantage of the witness with this map; it is not in accord with the map you are presenting to him.

Witness:

I cannot tell you that.

Mr. MacIntyre:

May it please your Honor I think from what the witness has already said, I object to the witness' competency as to locating the places he surveyed five years ago.

The Court:

He cannot state from a map drawn by somebody else whether the lines are correct or not.

Mr. MacIntyre:

Also to the fact that the witness has located the hill Cerro Bruno Cerdo here (indicating point marked "X" on map), when as a matter of fact the hill is about three miles away.

Judge Fairman:

Not only that,—the map now shown is different from the map in evidence.

Mr. MacIntyre:

I will present this map in evidence; the map I handed the witness is an exact blue print of the map in evidence without having added on it the lines made at the request of Mr. Domingo Diaz.

Judge Fairman:

He testified he made the actual survey and can tell whether or not the indications are correct.

The Court:

He wants to refer to a map made by somebody else; but he can take a map and make it and then swear it is right; on the cross-examination he says he cannot so state. You and I can take this map and the names and places are all written in and point them out, but—

Judge Fairman:

I am not asking that; I am asking whether or not what is shown is correct according to his survey.

The Court:

He says he has no field books, but is only testifying as to his memory five years ago,—that is too indefinite.

Judge Fairman:

There is no question whether the witness testifies or does not, it will not destroy the actual physical conditions as they exist, and that being the case, can Mr. Arosemena prepare a little sketch map and locate these things?

Mr. MacIntyre:

From his field notes he can, but not from memory.

The Court: (To witness):

Have you the map you made of this country?

A. No.

Q. Have you any field notes?

A. No.

Q. You have no written data whatever from which you can answer these questions?

182 A. No, except I know the places, because I have been there myself, and I know where all the places are, as I made the survey between Mr.

Diaz' and Mr. Icaza, and put the monuments on the ground.

The Court:

I think this witness might be able to do enough work on the map to locate these important points;—I do not know, but I assume he can do it.

Mr. MacIntyre:

Now, may it please your Honor, the minute Mr. Arosemena leaves the Court, he will be handed one of these maps by Mr. Diaz to make a copy or sketch,—I can do that myself.

Q. I want to know the bearings of this bill, and how long you would make that line on a map 1 to 10,000?

A. Eight centimeter.

Q. Now draw a line eight centimeter long?

A. I have no scale.

Q. From these two lines located on this sketch you are now making the location of the Rio Matasnillo?

A. I would draw a line from one of the Ancon prominences and meet the hill—

Q. (Interrupting) The idea of using one of the Ancon hills is merely to get a bearing point?

A. Yes, sir.

Q. Is that often done in Spanish deeds,—taking a distant point to get a straight line to an intermediate point?

A. Yes, sir; I have had occasion to do that.

Q. Now, on this little sketch which you are just making, can you locate the Sabanas Road in regard to Cerro Bruno Cerdo?

A. (Indicates.)

Q. About how far is it from the point where the Matasnillo River crosses the Sabanas Road to Cerro Bruno Cerdo?

A. A little over a mile.

Q. You are not positive as to meters?

A. It is a little over sixteen hundred meters.

Q. It may be seventeen hundred meters?

A. I could not say exactly.

Q. Then you could not make an exact map from memory?

A. No, that would be impossible.

Q. And you have no field notes?

A. No.

Q. And the only way by which you could locate these lines would be to take someone else's map?

A. No, sir, but I could on a map—

Q. (Interrupting) But here's a map. (Indicating map before witness).

A. Yes, but I have no distances in my memory.

Q. What would you have to have before you to locate these locations on the map?

A. The notes.

Q. And you have no field notes?

183 A. No.

Q. And you could not locate them exactly?

A. Only approximate.

Q. We object to the witness.

The Court:

The objection will be sustained; but I believe this witness can locate the prominent points of the map if he is familiar with that land; he could not give the distances, only approximate; he could not give the vari-

ance of the lines, only approximate; but I think he would be able to give the essential and prominent points, and the general bearing from one point to another, and the approximate distances. (To witness): Witness, can you do that without reference to this map introduced in evidence?

A. Yes, sir.

Q. Let him make another copy, and keep this map away from him.

Judge Fairman:

But this map is four or five inches narrower than the other map.

The Court:

He can take another piece of paper and attach it on there and locate the points. I think these people are entitled to show as nearly as they can where these points are. This man cannot tell exactly, but he ought to arrive at it approximately.

Judge Fairman:

He states he has prepared a map and delivered it to the owner. (To witness): Can you obtain a copy of that map?

A. I could not say that.

Q. Mr. Icaza was a partner of Mr. Arosemena, and if he can get that map, that is all we would want.

The Court:

If he can get that map there would be no doubt as to the witness testifying.

Mr. MacIntyre:

I would like to make this map which I used in my cross-examination as Exhibit "A-3."

Witness:
I could not locate those; that is not the exact point; I will not—

The Court:
You say you could not locate it, and would not say that is the point?

Mr. MacIntyre:
Interrupting): For the purposes of the record, I wish it to be stated that the black ink which I now make on the map was upon the pencil cross made by witness on the map when asked to locate Cerro Bruno Cerdo.

Judge Fairman:
I wish to state that said pencil mark was made by Mr. MacIntyre.

184 Witness:
I will not testify more * * * I will not stand for that mark. I— * * *

The Court:
I heard what you stated, and that you would not stand for that mark, and I am the one passing on the case,— not what the lawyers say; these lawyers say a great many things that the Court does not take into consideration; don't worry about that; that does not bind the Court at all.

(Witness retires from witness stand).

ARTHUR RAGGI is the next witness called on behalf of the plaintiffs, and after being duly sworn according to law, testified as follows:

Direct Examination.

By Judge Fairman:

Q. Please state your name?

A. Arthur Raggi.

Q. How long have you been a resident of the Isthmus of Panama?

A. Since '94,—twenty-seven years.

Q. What is your profession?

A. Civil Engineer.

Q. Of what school or schools were you graduated?

A. Switzerland, in the Polytechnic School, Zurich.

Q. How long have you been practicing your profession?

A. About forty years.

Q. In what capacity were you employed by the French Canal Company?

A. I was Chief of Section; in charge of the Culebra Section.

Q. In what capacity were you employed by the Isthmian Canal Commission and The Panama Canal?

A. Assistant Engineer, and later as draftsman; and until last year with Judge Feuille in the Joint Land Commission cases, preparing maps and data, and preparing papers from deeds.

Q. In your employment with The Panama Canal your business was to elevate maps from data furnished you?

A. No surveying in the field, but preparing maps in the office from notes, deeds, and other maps, and so on.

185 Q. And the maps that you made under these circumstances, were they regarded as official maps of The Panama Canal?

Mr. MacIntyre:
To which we object; may it please Your Honor.

The Court:
No, let him answer.

Witness:
Yes, sir.

Mr. MacIntyre:
Exception.

Judge Fairman:
Are you acquainted with the various maps whereon the estates of San Jose, La Gloria, La Club, Mata Redonda, and Lo de Caceres are located?

A. Yes, sir; with the exception of Club X, which is one of the neighboring estates, and I just know the location of that estate, but I do not know the map.

Q. Are you also acquainted with the maps relating to the estate of Lucha Franco?

A. That is a bounding estate with Lo de Caceres, and I know the location, but I do not know the whole estate.

Q. Have you ever had occasion to prepare a map showing the relative position of the various estates I have mentioned to you?

A. Yes, sir.

Q. From what data did you prepare such map?

A. From deeds. And I used the survey made by Mr. Malsbury and his partner, and showed the boundary from those.

Q. You based upon the survey made by Mr. Malsbury the lines showing the various boundaries from the deeds to those properties?

A. Yes, sir.

Q. Have you such a map?

A. Yes, sir.

Q. I exhibit to you here a map, Exhibit "3", and ask you to state whether or not that is the map which you prepared in accordance with the statement you have just made?

A. Yes, sir.

Q. I will ask you to take that map and explain to the Court the various lines and the estates which they represent, together with the deeds or documents from which your data was taken, in order to prepare these lines.

Mr. MacIntyre:

To which I object; the map is not in evidence.

The Court:

He cannot show me anything that is not in evi ce.

Judge Fairman: (Continuing):

This is the map which you prepared in accordance with your preceding statement?

A. Yes, sir.

Q. By reference to the map of Mr Malsbury and with respect to the deeds of the various estates?

A. Yes, sir.

Q. We wish to offer it in evidence.

Mr. MacIntyre:

To which we object, on the ground that the witness is not qualified as a surveyer, but merely as a drafts-

186 man; that the data from which he made that map is merely from paper descriptions given him by the plaintiff herein, and the witness has not stated whether he knows that the descriptions given in those papers are true; further, the witness is not a surveyor and has never been upon the grounds which that map elevated.

The Court:

The main objection to me would be this: that he is simply testifying from the work of somebody else, and that does not prove that the other man's work is correct, and if that is not correct then his map would not be correct.

Judge Fairman:

This is a copy of the original map already in evidence. I have only the different descriptions of the lines drawn in accordance with the deeds here. (To witness): Mr. Raggi, in putting the lines which you have on that map in regard to the estates which I have mentioned, to what particular record did you refer?

A. I had some of those deeds in the Joint Land Commission file; I had booklets which have been sent to the Circuit Court of Appeals at New Orleans, and which contain all the deeds; some of them were not very clear, and I asked Mr. Diaz to show me from the Spanish; but I can explain anything on this map, and why.

Mr. MacIntyre:

We will object to the witness testifying from that map on the ground that the witness has stated that the lines which he has put on that map are only from written instruments furnished to him, and we do not know and the witness does not know if the directions,

lines, and boundaries mentioned in those written instruments are correct.

The Court:

He is only making an explanation; (To witness): make your explanation.

Witness:

I was asked by Mr. Diaz to show on a map the lines described in those deeds, according to the deeds of Lo de Caceres, Mata Redonda, La Gloria, and San Jose. The same map I used has been used by the Joint Land Commission,—the survey by Mr. Malsbury,—and when getting the blue print I noticed some changes were made on the map since 1914,—the changes were made in 1920 after the Joint Land Commission had passed on the subject. I noticed those changes were not very important and did not take anything out. On that map I tried to locate all points described in the deed, and found some of them were outside of the border of the map,—a certain part of La Gloria, because the Joint Land Commission at that time was not interested in that. To complete that I took one map, which is on file in this Court, and the survey by two ex-
187 perts appointed by the Judge for the estate of La Gloria, which completed my map from the Malsbury map in regard to the missing points. I wanted to locate the hill here (indicating) in regard to Panama in order to show where this property was, and in the Malsbury map some of the Sabanas Road is shown; I completed some little part of the Sabanas Road showing just two hills on the map, but that did not effect this map at all because it is outside of the boundary line. Then I took the deed, as I stated, and

followed the deed and did my best to show the distances, in each one of the different colors on this map. I had to select some of the plans which would not exactly describe such points as the Pena Hueca, such point as Mocambo, and such other point as the Chapel. I see on the map one Pena Hueca shown here (indicating), and I believe I had to find out where that Pena Hueca was from the deed; then I see on this map a road is shown to the Chapel, which was the same as shown on the Joint Land Commission map, but on this map they had added a new road. I did not know which one of these two were the correct one, and had to select one. Then, in the deed they refer to Mocambo Hill, and some refer to Mocambo, which is the land, and some of them refer to the confines of Mocambo, which means the limit of Mocambo, and also indicates a large place. Some of the deeds speak of Cerro Mocambo. I had to select something to show Mocambo.

The Court:

How did you make these selections of the points?

A. For instance, I took the first one, the most important one, as everything comes from that,—the Pena Hueca,—which is mentioned in almost all deeds except one; I took first the original deed of Mata Redonda of 1695, that deed starts from the Pena Hueca to the headwaters of the Cardenas; down the Cardenas to the Palangana; then to some "rocky quebrada", which is named in other deeds the Platanar; up the Platanar to its headwaters; and then stops; so that it is very likely that designation starts at the Pena Hueca and goes back to the headwaters of the Platanar, we know the other link is between the headwaters of the Platanar and the Pena Hueca, otherwise the polygon would not be closed.

There would be three-quarters of a mile from the headwaters of the Platanar to the Pena Hueca open, so that this must be the Pena Hueca,— although there is no mechanical proof. In that same deed there is a name Gallinazos, and that description does not fit to any description; when you take this out, you could not introduce anything like a line from Gallinazos to Mocambo—

Mr. MacIntyre:

We are going to object at this time to the witness arguing the case for the plaintiffs.

188 Witness:

I am only explaining.

The Court:

Did you make any of the surveys from which you drew these maps?

A. No, I only went on the place, but made no survey.

Q. Did you depend on somebody else's map from which to draw your map?

A. The Court map of 1913 for La Gloria and the Military maps.

Q. Did you draw from your own survey either one of the maps from which you made this map?

A. No, I did not draw them; I just had them.

Q. Then you were making this map with the idea that the maps from which you made this map were correct?

A. Yes.

Q. And if they were not correct then this map would not be correct?

A. No.

Q. You have been on the land?

A. Yes, sir.

Q. You know some of the points mentioned in the deeds?

A. Yes.

Q. Have you ever run any lines whatever relative to the lands now in question?

A. Only on the map.

Q. As a surveyor?

A. No, none at all.

Judge Fairman:

I think a better plan would be this: (To witness) The points marked on the Malsbury map as Mocambo and Sonsonate Hill, you took those points as being correctly placed on that map?

A. I admitted everything on the Malsbury map as correct.

Q. Taking these points as a basis or as one of the places with proper names, you then superimposed upon this map the lines described in the various deeds relating to the estates which this map would enclose?

A. Yes, sir.

Q. Have you on this map placed all lines relating to the various deeds of the estate of Mata Redonda?

A. Yes, sir; every one of them that I had.

Q. Well, you had reference to the record in Case No. 3382, wherein Guillermo Patterson was Appellant and Domingo Diaz, et al., were Appellees, in the United States Circuit Court of Appeals?

A. Yes, sir.

Q. You had reference in preparing this map to all deeds referred to by both parties in the trial of that case?

A. Yes, sir.

Q. And you have superimposed upon this map the lines those deeds would call for, taking into consideration the principal points shown on this map by the original survey are correct?

A. Yes, sir.

Mr. MacIntyre:

Then, for what reason, Mr. Raggi, did you change on your map the Pena Hueca from the one shown on the Malsbury map?

A. This is the Pena Hueca as claimed by Patterson, and not as accepted by me as being the Pena Hueca.

Q. How did you select between the three
189 descriptions, one which said "the hill Mocambo," the other "Mocambo region," and the other "the furthest limits of Mocambo?"

A. I did not select any; I believe the Cerro Mocambo here is the same point used by the Land Commission when they made the award of the money and paid the party in the field; they used that line because Mr. Jackson's decision says "from the Pena Hueca to Mocambo,"—it does not say to Cerro Mocambo. As I understand, the Judge in Panama has selected another Mocambo, which is not this Mocambo.

Q. Do you know whether or not there is a river called Mocambo?

A. Yes; there is a river.

Q. Do you know whether or not the decision relates to the Mocambo River?

A. No.

Q. Did you put on this map the old Porto Bello trail?

A. That is indicated by this line. (Indicating same).

Q. How about this other line, also called the Porto Bello trail?

A. That is also located here on the Malsbury map; this one (indicating) is more like the trail shown on the old map of 1857 of the Railroad Company.

Q. Then part of this map, that is, the portion running from the spot marked Mata Redonda to a spot about in the center of the map, or a distance of about three miles, is taken from one of the old Panama Railroad maps by you?

A. No, no, this is the Malsbury survey. I had not taken that road from the old survey; that road is shown by Mr. Malsbury on his map only partly,—the starting point,—and I have added that little portion in order to make it plain that the place was here.

Q. And you have projected that with dots on this map, a distance of about two miles?

A. Yes, sir.

Q. And that projection you made is just merely because you know some map did show a road approximately in that vicinity?

A. Yes, sir.

Q. That is all.

Judge Fairman:

Now, Mr. Raggi, you have stated that part of your data in the preparation of this map was obtained from the decree and map filed in 1913 in the Canal Zone Court?

A. Yes, sir.

Q. At this time, if Your Honor please, I assume this Court will take judicial cognizance of its own record; however, I wish to offer in evidence the decree of the First Judicial Circuit Court of the Canal Zone,

certified by this Court, wherein Narciso Garay was plaintiff and Adolfo Aleman, et al., were de-
190 fendants, wherein the lands of San Jose, La Gloria, and Pan de Azucar were delimited, the said properties being one of the boundaries of the estates of Mata Redonda and Lo de Caceres.

The Court:
What is your theory of this bearing on the case?

Judge Fairman:
First, for the location of Mata Redonda; and second, as qualification for the witness for certain lines drawn on the map.

Mr. MacIntyre:
We object to the introduction of that decree unless it contains with it and has attached to it the answer of this defendant, Patterson, because that decree confirmed Mr. Patterson in his lands as claimed by him.

The Court:
Well, why do you object to it then?

Mr. MacIntyre:
Unless it has attached to it Mr. Patterson's answer confirmed by the decree.

The Court:
Are the papers accessible?

Judge Fairman:
They are in the archives of this Court.

The Court:
The records are all here?

Mr. MacIntyre:
Yes, sir.

The Court:
And if they are all here they may be all introduced; I will allow you to introduce this, with the understanding that all records and papers go in the case. As to this map: that has not been technically proven to admit this map in evidence; I will admit it conditionally; this man cannot check it up.

Judge Fairman:
This is the Malsbury map which is already in evidence.

The Court:
He says he has changed the Malsbury map, and drawn different lines and locations, because he says that is not as he knows it.

Judge Fairman:
He has simply superimposed certain other points.

The Court:
Any changes in an exhibit makes it another thing; he has made changes on the Malsbury map which has been in evidence; he has added to it.

Judge Fairman:
No principal points.

The Court:
Maybe not. But I will allow you to introduce it conditionally. You have another surveyor he made a map. I will give you another opportunity to connect it up, and will now admit it conditionally.

Judge Fairman: (Continuing):

In connection with the decree and opinion in the Garay-Aleman case there was a map and survey made by order of the Court to which this witness testified he referred to in getting some of his points.

191 (To witness): I exhibit to you here a map marked Exhibit "T", and ask you to state whether or not that is the map prepared under the order of the Court to which you have referred in connection with the preparation of the lines shown on Plaintiff's Exhibit "3?"

A. Yes, sir, this is one of the maps; there is another one which was made by the same Johnson and shows some more "La Gloria,"—exactly the same map, but there is an addition of some more "La Gloria."

Q. This map was the one which was part of the record in the case to which I referred?

A. Yes, sir; the title reads "General plan of the lands which interest the expert upon Pan de Azucar, surveyed by order of the Court of Ancon. Scale 1:5000.' and signed by W. C. Johnston.

Q. Plaintiffs tender Exhibit "T" in evidence.

Mr. MacIntyre:

To which we object, upon the ground that the proper foundation for the introduction of the map has not been laid.

The Court:

It can be admitted conditionally the same as the other map.

Mr. MacIntyre:

Has Your Honor ruled that all evidence given in the former case shall be used.

The Court:
All the record evidence.

Mr. MacIntyre:
He is attempting to introduce Exhibit "T" as a map made by some party to this Court and to this defendant unknown, who is not in Court and whom we have had no opportunity to cross-examine as to his qualifications, or as to the data from which he drew—

Judge Fairman: (Interrupting):
Plaintiffs introduce it as part of the proceedings in this Court.

The Court:
It is admitted for the reason that the map which has now been tentatively admitted in evidence was drawn from this map, together with other maps, and the evidence will have to show finally that the maps from which he drew the map,—Exhibit "3,"—were correct.

Mr. MacIntyre:
Exception saved.

Judge Fairman (Continuing):
Mr. Raggi, I will ask you to take this map and indicate to the Court by reference to Exhibit No. "3" of plaintiffs, the point or points which you joined up by reference to this map and superimposed upon Exhibit "3."

Mr. MacIntyre:
We will object to the witness testifying from the map introduced as Exhibit "T" on the ground that it has

not been finally introduced in evidence, and no testimony from that map can be given until the
192 proper foundation for the introduction of that map in evidence is laid.

The Court:

The Court overrules the objection, with the understanding that the proper connection,—the basis must be formed,—before the Court considers it as evidence.

Mr. MacIntyre:

Exception is noted.

The Court:

All right. Proceed.

Witness:

Some of the plans, or points, are shown on the Malsbury map, and the crossing of the Rio Hondo by the road from Mata Redonda, and a couple of others, is shown also on those maps.

Judge Fairman:

I will ask you to indicate to the Court the road shown on this map to Mata Redonda, and the same road shown on the other map?

A. I would call "A" (marking same accordingly) the crossing of the Chapel road on the Rio Hondo; and call "B" (marking same also) the same road a little south of that; and repeating the same letters on the Malsbury map, the crossing here at "A", and the road crossing here at "B." (Indicating same accordingly).

Mr. MacIntyre:

Is the scale of the two maps identical?

A. No,—double; this being one-half of that. (Indicating Exhibits "T" and "3" respectively).

Q. I would ask Mr. Raggi at this time if you checked by mathematical instruments the distances from "A" on Exhibit "T" to "B" on the same exhibit to see if the two surveys agreed with the same points on the Malsbury map,—to see if the same points on the two maps are mathematically correct?

A. Yes,—you see you have here forty-seven degrees, and that would be seven on this (indicating); that is the cross road (indicating on map), and that is the path (indicating).

Q. Is it exactly correct?

A. Within a hair breadth; though I cannot state that.

Q. In a map on a scale of 1:10,000 how much difference in feet will ten millimeters on the scale make in the map?

A. I did not check that.

Q. If the map is drawn on a scale of 1:10,000, how many feet will be represented by 1 centimeter?

A. One centimeter is 100 meter, or 328 feet. One centimeter is a length about like this, (indicating), and represents .0328 feet; about 330 feet on the map here, and double on the other (map).

Q. Then if there is a difference of 50 millimeters on the two maps, there would be a difference of about 250 feet?

A. 50 millimeters represents 500 meters on the map, or 1500 feet and something.

Q. How many millimeters difference is
193 there between the two surveys, between "A" and "B?"

A. If you want to have very accurate measurements you have to use the originals; when you make blue prints the paper gets wet and stretches, and you cannot get the correct scale; but the difference in milli-

meters I can give you on the maps; (scaling maps) you get 142 millimeters here and on the other one 69,— instead of 71,—that would be 2 millimeter difference.

Judge Fairman:

How many feet?

A. Twenty meters, or a total distance of 1420 meters; that is one in 700.

Mr. MacIntyre:

It is over 20 yards difference.

Judge Fairman:

About sixty-six feet.

Mr. MacIntyre:

Then in a line of 1400 meters, the two maps are 66 feet apart in that short line?

A. Yes, sir.

Q. If that same discrepency exists in that short distance, what is the total discrepency in the length of the Rio Hondo, admitting there is a discrepency of 20 in 1400?

A. Each map is absolutely correct as to the location; I am thoroughly convinced that this survey is as correct as any survey can be made and as any survey made on the Canal Zone by Malsbury and his party; they have made it carefully. There are always some troubles in the survey, but you can accept this as a good survey.

Q. Can you swear of your own positive knowledge which of these maps showing a difference of 66 feet between the pass on the Rio Hondo and the Mata Redonda, which one is right?

A. No.

Q. We object again to the introduction of either of the maps.

The Court:

They have been introduced tentatively and conditionally.

Judge Fairman:

Now, Mr. Raggi have you by means of your instruments placed upon the map, plaintiff's Exhibit "3", the distances and points of the compass of the various lines representing the several estates?

A. Yes, sir, in black.

Q. Referring to the point running from the headwaters of the Rio Hondo to the point marked Mocambo, I will ask you to state what is its distance and in what direction does that line run?

A. The line runs N. 21 degrees 30 minutes W., for a distance of 4,600 meters.

Q. Taking the point from Mocambo to Sonsonate Hill, I will ask you to state the distance and direction which that point runs?

A. The line runs N. 68 degrees W., a distance of 4,360 meters.

Q. Taking the point from Sonsonate Hill to the point at the headwaters of the Carrasquilla?

A. No. 9 degrees 30 minutes W., 4,330 meters.

Q. Taking it from the headwaters of the
194 Carrasquilla to the point at the junction of the Palangana and a small creek near Pan de Azucar, I will ask you to state the distance and direction of that line?

Mr. MacIntyre:

I will object to the witness testifying, because the map would be the best evidence when introduced.

The Court:
Well, that is true.

Mr. MacIntyre:
Until the map is properly introduced there is no evidence before the Court, and it only tends to confuse the issues by having this provisionally introduced document, and then allowing a great deal of testimony to be founded on this provisionally introduced instrument which may be finally ruled out.

The Court:
All these distances and directions are indicated on the map?

Judge Fairman:
Yes; but I want to get it in for this reason; I have started my complaint with the source of title from the Crown grant; then, I have also in that complaint made a statement of a subsequent deed, called the Miro Deed of 1832, and have indicated a description of that land by metes and bounds; and, in addition to that, I have in my complaint, described by metes and bounds the particular portion of all of this land which is in dispute.

The Court:
Doesn't your map show all of that?

Judge Fairman:
Certainly.

The Court:
Then why ask the witness what is on the map?

Judge Fairman:
I think it should go in the record.

The Court:
If the map is in evidence, isn't it in your record? Go ahead, and ask your questions.

Mr. MacIntyre:
In order to save time, may it be understood that my exception lies to every one of the questions asked of this witness referring to the maps now before him?

The Court:
No, I cannot do that.

Mr. MacIntyre:
Then I will have to take it every time.

Judge Fairman:
I am going to shorten the matter considerably. (To witness): Mr. Raggi, will you kindly state, referring to the grant of 1736, and trace upon this map the different points which you have indicated as covered by that grant, and also state the distances and directions in a straight line between the various points?

Mr. MacIntyre:
To which we object, for the reason that the map from which the witness is testifying has not been finally introduced in evidence, neither has deed of 1736,
195 —having been only conditionally introduced in evidence pending the correction in the translation concerning which there is still a dispute.

The Court:
Proceed, and answer the question.

Mr. MacIntyre:
Exception.

Witness:
From the headwaters of the Rio Hondo to a certain quebrada in the vicinity of Dan de Azucar,—

Judge Fairman: (Interrupting):
Give the distance and directions.

A. The distance is given in two straight lines, not following the meanderings of the river, No. 21° W., 1250 meters, and the other N. 11° 30′ E. 2275 meters. Then a straight line passing at the headwaters of the Matisnillo River, and extending down in the same direction to the headwaters of the Carasquillo, the direction is N. 60° E. 3520 meters. Then from the headwaters of the Carasquillo to Cerro Sonsonate,—the deed says "y Gallinazos."

Mr. MacIntyre:
Translate that in English.

A. "And Gallinazos." (Continuing) A distance N. 9° 30′ W 4330 meters. Then in a straight line from Cerro Sonsonate *y* Gallinazos to the starting point, Mocambo, N. 68° W., 4360 meters. Then from Mocambo to the headwaters of the Rio Hondo, N. 21° 30′ W., 4600 meters. This is shown in black on the map. (Exhibit "3").

Judge Fairman:
I will ask you to indicate by the same means the boundaries indicated in the deed of Miro of 1832.

A. The Miro deed?

Q. The boundaries of the Miro deed to Jose Garcia de Paredes.

A. The Miro deed starts at the Pena Hueca and goes to the headwaters of the Platanar, the direction is S. 69° 30′ E.. distance of 300 meters. Then down the Platanar River to the junction of the Palangana River. Then down the Palangana River to a point where the Palangana River becomes parallel to the crossing of the Rio Hondo and Chapel Road,—

Mr. MacIntyre:

Is that what the deed says,—"Chapel Road?"

A. "Camino de Mata Redonda." That is the Chapel Road, but the real name is Camino de Mata Redonda. (Continuing) It is N. 39° 30′ E., 900 meters. Then from that point on the Platanar to the crossing of the Mata Redonda Road on the Rio Hondo, N. 76° E., a distance of 1340 meters. Then following the Rio Hondo downstream to a certain quebrada in the vicinity of Pan de Azucar, a distance N. 11° 30′ E., 2275 meters. Then a straight line passing over the headwaters of the Matasnillo River as far as the headwaters of
196 the Carasquilla River, N. 60° E., 3520 meters. Then a straight line to Cerro Sonsonate, N. 9° 30′ W., 4330 meters. Then a straight line from Sonsonate to Mocambo, N. 68° W., 4360 meters. Then from Mocambo to the Pena Hueca, in a straight line, N. 15° W., 5400 meters. That closes the description.

Judge Fairman:

Now, Mr. Raggi, for the benefit of Court and counsel, I will ask you to state the boundaries of the Miro deed of 1832, and its relation to the present Canal Zone

boundary line, together with the description of the lands lying within the boundaries of that deed, which is now,—we will say,—in dispute.

A. You mean the Miro tract within the Canal Zone?

Q. Yes, sir. The part of the Miro deed within the Canal Zone.

The Court:

You are getting down to the nut now.

Witness:

The part in dispute is (indicating on Exhibit "3") from the Pena Hueca here to the Canal Zone line, claimed by Patterson, and then following the Canal Zone boundary line to Monument 81.

Judge Fairman:

Have you got the distances and directions?

Mr. MacIntyre:

Yes, but the map speaks for itself.

Witness:

I have this one (indicating), and this one here (indicating).

Mr. MacIntyre:

I will object to the witness testifying from the judicial sale of 1895 on the ground that that has not been introduced in evidence.

The Court:

Let him answer that. (To reporter): Re-read the question.

Reporter: (Reading):
Have you got the distances and directions?

Judge Fairman:
Erase the question entirely. (To witness): Mr. Raggi, referring to the boundaries of the Miro grant, the Canal Zone boundary lines as indicated upon this map (Exhibit "3"), and the mark on the southern part of this area indicated in yellow, I will ask you to take the boundaries as stated, and run them by distances and directions?

A. Starting at the Mata Redonda to the headwaters of the Platanar, in a straight line, S. 69° 30′ E., 300 meters long; then down the Platanar to the junction of the Palangana; and then down the Palangana to the crossing of the Rio Hondo and Mata Redonda Road, a distance of N. 59° 30′ E., 900 meters; then a straight line to the crossing of the Rio Hondo, N. 76° E., 1340 meters; then along the trail of Mata Redonda to a point where the trail crosses the Zone line, a distance of N. 56° 30, W., 800 meters; then to the crossing of the Zone line between monuments 86 and 87, in a direction N. 6° E., 2100 meters; then following the Zone line to a point in the vicinity of Monument 81, a distance of 3350 meters; then a straight line to the Mata Redonda, N. 15° W., a distance of 3850 meters.

Q. That is all.

197 Cross Examination.

By Mr. MacIntyre:
Q. Did you ever find a "Pena Hueca" in any of the Lo de Caceres deeds?

A. No. I saw it in the Mata Redonda deed; in several of the Mata Redonda deeds it is stated "Pena Hueca o Mata Redonda."

Q. Then you were mistaken when you mentioned as the starting point in the various Lo de Caceres descriptions a point called "Pena Hueca?"

A. It is synonymous to me to "Mata Redonda."

Q. But that term does not appear in any of the Lo de Caceres grants or deeds?

A. I do not know that.

Q. You have stated in speaking of your first Crown grant line that it ran to a brook; how is that brook designated in the Crown grant?

A. If I remember right, I think, "in the vicinity of Pan de Azucar."

Q. What name is given to that brook in the grant?

A. I do not remember.

Q. Is there any name given to it?

A. I do not remember.

Q. How did you know that the place to which you drew that line is the brook mentioned in the grant?

A. I have taken it from the same Court map, and this map was drawn by order of the Judge himself, and he took this line as the starting point and went up to the river here (indicating).

Q. Does that Crown grant state that the line goes to the "headwaters of the Matasnillo," or, from a "certain brook"—no name—to Matasnillo; without stating what part of Matasnillo?

A. "To Matasnillo."

Q. Does that Crown grant state the brook Carrasquilla, or up near a brook somewhere in the hill side?

A. Yes.

Q. How did you know what that nameless brook was?

A. It says so in the old grant, and shows here (indicating Exhibit "T") the headwaters of the Carrasquilla, and shows the Cerro Bruno Cerda, and shows—

Q. (Interrupting) Then you have only drawn these lines because such line appears on Exhibit "T", which was in this Court, made by some engineer in some other case?

A. Yes, sir, and because I made it from the description given.

Q. You have stated that the Crown grant states the line runs to Gallinazos, where is Gallinazos on this map (Exhibit "3.")

A. I cannot say; I have asked all the surveyors that made this survey, and they did not know where
198 Gallinazos was. All I know is that Gallinazos is mentioned in the early deed of Mata Redonda, and also in the survey of Caceres; in the early deed of Mata Redonda they describe the whole thing in a closed polygon,—they close the polygon entirely, and then if they went in there from Gallinazos to Mocambo,—if you want to introduce that in the closed polygon it would be either inside or outside on the line,—it must be on the inside, and it would have to fall on the other side, and would not agree with the closed polygon,—therefore, it must be on the polygon itself.

Q. Then I understand in order to make this line fall as Mr. Diaz wished you to draw it, then you would have to disregard that part of the grant which says the lines goes "to Gallinazos and Sonsonate?"

A. No; I would be glad to have Gallinazos located, and then draw the line, and that would gee; but, as I say, you cannot fit that Gallinazos in any of the old deeds. In the old deed of Mata Redonda that word is not used, and we do not know whether it is Gallinazos or not, though in the deed of 1854 that word has been re-established, and that is the only place you see that

word with that name, and in that deed the line is closed and there is no place to fit that boundary of Gallinazos and Mocambo.

Q. Mr. Raggi, have you examined these deeds in Spanish, as well as English?

A. No, not all.

Q. Did you read the old 1736 Crown grant in Spanish?

A. No, that one is plain to me in English; I only saw the Spanish part where they say "from the headwaters of the Carasquilla to Sonsonate y el Gallinazos."

Q. And you did not see "y desde alli hasta Mocambo que baja la misma linea"?

A. Yes, sir.

Q. How does "que baja la misma linea"—going back on the same line—how does that line come in?

A. You know if you take a line from here (indicating) and go up to Cerro Mocambo, it would be impossible,—it would not be proper to go back on the same line and then go to Mata Redonda,—that would be nonsense.

Q. Did you hear Mr. Arosemena testify that it is frequent in Spanish deeds to take a 'long shot' in order to establish a line on the boundary?

A. Yes.

Q. May it not mean that same thing is done here? Where it says the line runs to Mocambo and then comes back to Gallinazos?

A. I never saw such designations; that is not the way.

Q. By reading deeds by Spanish lawyers who
199 were not engineers back in the 17th Century?—

A. (Interrupting) Yes—

Q. (Continuing): They are liable to make any kind of description?

A. Yes, but I believe that description—"que baja", —means to come to the Cerro de Sonsonate to Mocambo.

Q. Could not the line have gone between Gallinazos Hill and Sonsonate Hill instead from the peak to the back of Mocambo?

A. It is possible, with the Sonsonate on the line or very close vicinity, so that it would not effect this line (indicating) but would explain that the Gallinazos has been introduced here as part of the description; if it is not on the line the closed polygon would not be effected by that link.

Q. You have described to the Court the land in dispute?

A. Yes, sir.

Q. Does that land in dispute include Mr. Patterson's house?

A. I have seen no Patterson house; there is one which is located in the estate and that is not included in this map, but there is one which is on the north of the trail of Mata Redonda, shown on this map as "Patterson House."

Q. May I ask, Mr. Raggi, is everything in dispute east of the yellow line on your map, up to the Canal Zone boundary?

A. Yes, sir.

Q. Do you know whether Mr. Diaz or his predecessors have ever been in possession of that land in dispute?

A. No; I do not know anything about that.

Q. You do not know who has been in actual possession?

A. No.

Q. Do you know whether every Mata Redonda deed equally described that land in dispute?

A. All of the Mata Redonda deeds are indicated on this map; (indicating Exhibit "3") the Mata Redonda deed of '59, '62, and so on, is shown by the white line of this map.

Q. How about the Mata Redonda deed which says that the limits of the land start from the Pena Hueca called Mata Redonda, thence to Cerro Algarobo, thence to Cerro Vidrio, and Cerro Gordo, and thence to the headwaters of the Cardenas?

A. That is on the white line.

Q. The heavy white line is the Canal Zone boundary line?

A. No, the one with the monuments shown is the Canal Zone boundary line.

Q. Then you have drawn that white line on the claim of Mr. Diaz that the Pena Hueca is at the old chapel?

A. No, no; I fixed that Mata Redonda myself;—if you will give me a chance to explain,—I set it there, first, because the deed of Mata Redonda of 1695 was closed by putting this line in here, and that deed does not show any line from the headwaters of the Platanar to this Mata Redonda. (Indicating on map).

Q. Then this boundary line was fixed by
200 yourself from your judgment of what the titles meant?

A. When I placed the Mata Redonda here I had several other reasons, and from the description in the deeds I know that line runs to Algarrobo from here. (Indicating).

Q. Is there a "pena hueca" to your own knowledge at the place where you have started the line,—is there a hollow rock there?

A. Yes, sir; there is a rock there with holes.

Q. Is the rock hollow?

A. It has holes in it,—natural holes.

Q. Is there a hollow rock at the point called Mata Redonda according to Mr. Patterson?

A. There is a pile of rock there with some crevices in them; it is hollow between the rocks.

Q. Does that rock bear any inscription?

A. Yes, there are two or three lines: "Mata Redonda" is on the first; "o" on the second; and "Pena Hueca" on the third.

Q. There is a very old inscription calling it "Pena Hueca or Mata Redonda"?

A. Yes.

Q. Is there any such inscription on this one claimed by Diaz? (Indicating on Exhibit "3.").

A. No.

Q. A flat rock, just protruding from the earth and covering a space about the size of this Court room, is it called in colloqual Spanish, "pena," "roca" "piedra," or "laja"?

A. I would call "pena" any kind of a rock, either loose or not, placed in the form of a boulder; I would call "roca" the same thing; piedra is also a rock but I would use it only for small things; "pena" is a general term; and "laja" is some flat bedded rock,—rocks that have a bedding.

Q. "Pena" is a protruding rock, what we would call a boulder?

A. It may be more or less protruding.

Q. That is all.

Re-Direct Examination.

By Judge Fairman:

Q. Would you call the formation of the place which Mr. Patterson claims is the Pena Hueca or Mata Redonda "pena"?

A. Either "pena" or "laja."

Q. What would you call it in Spanish?

A. I would call it in English a boulder or round rock,—I do not know exactly the term in Spanish.

Q. What would you call an outcrop of rocky substrata which has been denuded of earth?

A. "Pena."

Q. You have used Mata Redonda and Pena
201 Hueca interchangeably. I will ask you to state in making use of those words, to what particular location upon this map do you refer?

A. This one. (Indicating).

Q. The one near the old chapel?

A. Near the old chapel.

Q. That is all.

Mr. MacIntyre:

At this point counsel moves that all the testimony of this witness based upon the two maps from which the witness testified, be stricken, on the grounds already indicated that the maps have not been sufficiently identified, or sufficient foundation laid, to introduce them in evidence, and they are not in evidence except provisionally.

The Court:

To which motion the Court reserves its ruling until the plaintiffs have opportunity to connect it up and form a basis for the testimony.

Mr. MacIntyre:

Exception.

(The hour of noon having arrived, the Court takes a recess until 2:00 p. m., at which time the trial herein is resumed).

DOMINGO DIAZ is recalled by the plaintiff, and his examination continued, as follows:

Direct Examination.

By Judge Fairman:

Q. I will ask Mr. Diaz to take the stand. The Court will remember objection was raised to Exhibit "C" on the ground that it was not properly authenticated.

Mr. MacIntyre:

That was one of the grounds only.

Judge Fairman:

That is the ground, I understood, it was refused admission.

The Court:

What was "C?"

Judge Fairman:

It purports to be a judicial sale; the report of it was made by Francisco Marquez from the records of his office. Mr. MacIntyre raised the question under Article 321 that such records had to be certified by the Court or official of the Court, as I understand it. Now, in this connection, I wish to call attention before I offer it in evidence to Article 4, of Law 43, of the
202 year 1912, and will ask Mr. Shiebley, the official translator of this Court, to read this Article in question in the record.

The Court:

What law is that?

Judge Fairman:

That's the law of the Republic of Panama; it relates to the national archives.

Mr. MacIntyre:

Does that law require all Court records shall be archived in the office of the Notaries?

Judge Fairman:

No, it is directed to the national archives, and who has authority to issue copies of records, and so forth.

The Court:

All you want to show is that the person had legal authority of the books.

Judge Fairman:

Yes, sir, and authority to issue the copies.

The Court:

You have had it properly certified?

Judge Fairman:

Yes, it has been certified by the Sub-Director of the archives.

The Court:

And you want Mr. Shiebley to read it, do you?

Judge Fairman:

Yes, sir; the law of the National Assembly of Panama, Session 1912 and 1913. (Handing document to Official Translator).

The Court:

It may be there would be no objection now if it is properly certified; we do not want to burden the record.

Mr. MacIntyre:

(Examining Exhibit "C"): It is certified by the Sub-Director of the national archives,—that's all proper; but, I am going to make the same objection Mr. Fairman made against me yesterday; I am going to object to the certificate on a separate sheet of paper, not permanently attached to the document they purport to certify to, for the reason that such loose leaf certificate may be attached to any paper, and it should be permanently attached to the paper they purport to certify; these are simply several pieces of paper together with a clip. I am going to object to any such papers going in.

The Court:

The paper you had yesterday was in reference to several signatures on loose paper.

Judge Fairman:

Some of the certificates are part of the paper, and some are attached to subsequent pages.

The Court:

Have you had the other one certified yet,—the other one I waited to have certified,—the one yesterday?

Mr. MacIntyre:

Mr. Patterson is down town now getting each and every one certified.

203 The Court:

One certificate would do, if it referred to each one.

Mr. MacIntyre:

It refers to each one by number and description.

The Court:

If that would be attached to it, that would be sufficient; have you already done that?

Mr. MacIntyre:

He is down town now getting it done.

Official Translator:

(Reading): (From Spanish into English):

"Article 4 of the laws issued by the National Assembly of Panama. Session 1912-1913.

"Once the national archives have been organized it shall be incumbent upon the director to issue the copies requested of him of all judicial or administrative proceedings, public deeds, and in general, all documents existing in the archives. The copies issued and signed by the director of the national archives shall be authentic documents which shall have the same probatory value as copies issued by clerks of Court tribunals and notaries public. The copies must be on corresponding paper according to law, and the executive may or may not establish a fee tariff for the issuance thereof."

Judge Fairman:

I will call the Court's attention to the law in force in Panama, as translated by Frank L. Joannini, it being at one time part of our law of Civil Procedure prior to the adoption of the present Code of Civil Procedure; with special reference to Articles 1270 and 1291, at pages 248 and 255, of the translation: "The Law of Civil Procedure, in force in Panama and the Canal Zone": the same articles relating to the records of estates in probate, or after they have been probated, and

disposition of the files or records of such proceedings. (Reads):

"Article 1270. Upon the expiration of the last term, the Judge who ordered them made shall approve them and send them for filing in the protocol of a Notarial office of the place where they were made, if they should conform to the legal prescriptions."

Mr. MacIntyre:
That refers to Article 1269. (Reading):

"Upon the inventory being concluded, the Judge shall order that it be referred to all of the parties interested, by means of an edict which shall remain posted for three days, in order that within the six days after its removal they may state what they may deem advisable."

Judge Fairman:
And Article 1291 is as follows:

"Article 1291. Upon a partition being approved, the Judge shall order:

1. That it be filed in the protocol of the respective Notary.

2. That a copy of the section relating to him be issued to each of the participants.

3. That there be delivered to each of the participants the property of the succession which may have fallen to him."

204 I read that for the purpose of showing that notarial documents on probated property, that

they are custodian of those records. (To witness): Mr. Diaz, I hand you a document marked plaintiffs' Exhibit "B-2", and ask you to state what that document is?

A. That is the succession of Don Ramon Garcia de Paredes,—the legal succession after his death.

Q. It relates among other things to the estate of Lo de Caceres?

A. Yes, sir.

Q. Plaintiffs offer in evidence Exhibit "B-2", together with translation thereof made by Mr. Sheibley.

The Court:

It may be admitted.

Judge Fairman:

I exhibit to you here, Mr. Diaz, a document designated as plaintiffs' Exhibit "C", and ask you to state what that is?

A. This is an act of judicial sale of the Hacienda of Lo de Caceres, acquired by Mrs. Catalina Lewis de Paredes in the city of Panama, 1895.

Q. I might state for the benefit of the Court this was issued by the Sub-Director of the national archives, and consisting of two pages, with the other certificates annexed,—a total of four pages.

The Court:

What is it?

Judge Fairman:

It is a judicial sale.

The Court:

Of what land?

Judge Fairman:
Of the estate covered in the inventory of the Paredes family.

The Court:
What's that to do with this case?

Judge Fairman:
It is the Lo de Caceres judicial sale; it is part of the land in controversy. We wish to tender fees for its complete translation.

Mr. MacIntyre:
We will, for the convenience of the parties, admit that the purported translation of Exhibit "C" commences from page 28 of the transcript of record used in the Circuit Court of Appeals, and is correct, except as to its certificates, of which we waive translation of. We will object to the introduction of Exhibit "C" upon all of the same grounds we raised when the exhibit was originally offered: document "C" is a purported sale made by Mrs. Cataline Lewis to herself; on the face of the document it appears that the vendor and vendee were one and the same person, and no money passed; it appears on the face of Exhibit "C" that it is an attempt of parties without titles to establish titles for themselves by means of a fictitious judicial sale to be made to themselves for the purpose of thereafter registering it and obtaining a description to their titles. We object to the introduction of Exhibit "C" for the reason that plaintiff has pleaded a record title starting with ancient Caceres grant; that the defendant has shown
205 that in 1832 one Pedro Miro made a sale of that land to one Jose Garcia de Paredes, and without showing any intervening links the plain-

tiff is now attempting to show a sale of those lands by a Mrs. Catalina Lewis de Paredes in the year 1895; that plaintiff has not shown that Catalina Lewis de Paredes was one of the heirs or was ever in judicial or legal possession of the lands of Lo de Caceres described in his petition or in the Crown grant of 1736, being the land in controversy. The plaintiff has not shown who were the heirs of Jose Garcia de Paredes, who was the reputed owner in 1832, or if he had any heirs to whom his property descended. The plaintiff has not shown in what manner Mrs. Lewis de Paredes became in possession or ownership of the land which she attempted to sell by the judicial sale in the year 1895.

The Court:

Exhibit "C" is admitted conditionally upon the plaintiffs being able to connect the title up.

Mr. MacIntyre:

Exception noted.

Judge Fairman:

I exhibit to you a document marked plaintiffs' Exhibit "C-1" issued by the Sub-Director of the national archives and ask you to state what that is?

A. This is a transaction between Don Jose Garcia de Paredes, son of Don Jose Garcia de Paredes, who bought Lo de Caceres of the widow of Ramon Garcia de Paredes; it is a friendly judicial transaction.

Q. The document speaks for itself: it is a judicial transfer of the property: it is practically a partition proceedings, you might call it. It was a judicial settlement of a law suit by friendly agreement,—that's the way I understand this document. I might add, in the judicial sale of 1895 there was excepted certain land

partitioned to the other heirs; and there was a conflict between them, and this is a settlement of that conflict, vesting the title in the widow, Mrs. Catalina Lewis de Paredes, of the land in question. This record of the judicial settlement involving this land is known as Exhibit "C-1".

Mr. MacIntyre:
We ask that this be held up until we see the translated copy; it is all in Spanish,—six pages all in Spanish.

Judge Fairman:
That's primarily to connect up Exhibit "C".

The Court:
How does it happen your clients have not turned over all these documents to you with proper translation so that there would be no delay?

Judge Fairman:
I cannot say; they probably depended on me to take the former record here and get from that all of the information necessary, and submit that in evidence. The matters placed in the old record were objected
206 to by the defendant and conditionally sustained; to overcome the conditions I have had to get these documents re-certified and re-drafted.

The Court:
Pass on to something else; you will have to get this translated.

Judge Fairman:
Mr. Diaz, I exhibit to you here a document marked plaintiffs' Exhibit "A-1", and ask you to state what that is?

A. This is a chain of title from one owner to another of Lo de Caceres, from the year 1806 to the year 1832.

Q. It is an abstract of title. (To witness) In what way was that document issued by the Notary Public, and what Notary Public issued it?

A. The Notary Public was Francisco Marquez.

Q. What year?

A. On the 19th day of January of 1892.

Mr. MacIntyre:

We will object to "A-1".

The Court:

He has not offered it in evidence.

Judge Fairman:

(Continuing): Mr. Diaz, this document relates to the land of Lo de Caceres?

A. Yes, sir.

Q. The lands in dispute in this case? Plaintiff offers in evidence Exhibit "A-1", the same being a chain of title commencing with the year 1806 and following to the year 1832.

Mr. MacIntyre:

We will object on the following grounds: First of all, that the exhibit itself bears on its face signs of having been altered since it was originally made; changes having been made in the original handwriting of the Notary. Second, that the alleged exhibit is a transcript of titles, the transcript reading as follows: (reading):

"I, Francisco Marquez, Notary Public Number One, Substitute of this Circuit, after having carefully examined the protocols of public and private instruments of this notarial office,

Certify:

1st.—Transmission of the right of ownership of the estate "Lo de Caceres."

Year of 1806.—By public deed under date of March 21, 1806, Mrs. Clara del Carmen Gongora de Caceres sold to Mr. Felipe del Barrio the estate called "Lo de Caceres". This deed does not exist in the notarial office, and I only cite said deed through reference made to it by Mr. del Barrio in the deed in which he sells." then follows another list of purported deeds which do not accompany these titles. I object to this to prove title.

The Court:

Is an abstract ever admissible to prove title?

Mr. MacIntyre:

No, it is always incompetent; and I object on the ground that the original itself has been tampered
207 with.

Judge Falconer:

The translation calls for all that.

The Court:

I cannot understand that abstract of title is admissible in evidence; the abstract of title may be correct, and it may not be correct.

Mr. MacIntyre:

The first thing he says in the abstract is "this deed does not exist", that the deed is non-existent. We object to its admissibility.

The Court:

The objection is sustained.

Judge Fairman:

Plaintiff excepts; and offers to prove by this evidence a complete chain of title from the year 1806, from the time that Mrs. Clara del Carmen Gongora de Caceres sold to Felipe del Barrio, the estate of Lo de Caceres; again, in the year 1810, where Felipe del Barrio sold the same estate to Jose Brajimo de Heredia; and in the year 1811, deed bearing date of September 16th wherein Jose Brajimo de Heredia sells to Jose Anjel Alzamora the same estate of Lo de Caceres; and again, in the year 1811 where Jose Anjel Alzamora sells the said estate of Lo de Caceres to Juan de Herrera y Torres; and again in the year 1824, when—

Mr. MacIntyre:

(Interrupting): We object to the reading of that abstract into the record.

The Court:

As the abstract is not admissible in evidence, neither is its contents; it can only be proven by the deeds and record; the abstract is simply made by some abstracter and depends on the correctness of the abstracter; nothing has been proven that the abstracter's work is correct, therefore the abstract itself is not admissible in evidence even if other grounds stated do not exist. The trouble is you are trying to introduce an abstract, and the records themselves,—neither deeds nor judicial proceedings,—are here, or attempted to be introduced in evidence.

Judge Fairman:

I am introducing a formal notarial document issued under the laws of this country and certified by the proper officer having in his possession the archives relating to the transfer of real property.

The Court:

You have your exception; your instrument shows exactly what it is, if you ever raise that question.

Judge Fairman:

The plaintiff excepts to the ruling of the Court in respect to Exhibit "A-1", and offers to prove thereby a complete chain of title from the year 1806 to the year 1832 wherein the last mentioned date the ancestors of the Paredes family became the owners and possessors of the Lo de Caceres estate,—a portion of the
208 land now in controversy.

The Court:

Judge, why don't you get the original deeds themselves, or certified copy of the record of them; you cannot show title by an abstract made by some person.

Mr. MacIntyre:

At this time I would like to move the Court to have stricken from the record all that part of offer of proof read by Mr. Fairman, and which was read from the abstract of title for the reason that it might lead the Appellate Court,—without knowing more or without seeing the abstract of title and being more fully informed, —to think that he did have in possession his deeds when in fact he did not.

The Court:

Motion will be overruled, and this Court will assume that the Court of Appeals will examine the instrument itself to determine whether or not it is admissible.

Mr. MacIntyre:

To which we save our exceptions.

Judge Fairman:

I exhibit to you, Mr. Diaz, a document marked plaintiffs' Exhibit "Q-1", and ask you to state what that is?

A. That is a copy of the inventory and valuation of the estate of Lo de Caceres when my father died; I was the assessor.

Q. Does that document refer to the estate in controversy?

A. Yes, sir; the estate in controversy.

Mr. MacIntyre:

To which we object on the ground it is only certified to by the mayor of the city of Panama, and Mr. Fairman's proof does not show that the mayor is authorized to certify to documents.

Judge Fairman:

In respect to the document to which the defendant has just objected, I find in the proceedings of the former trial as set forth at page 216 to 222 the Notary Public himself appeared in this Court and testified as to this particular document, and qualified, and it was admitted. I will therefore ask to introduce this document in evidence as set forth and contained on pages 216 to 222, inclusive, under plaintiffs' Exhibit No. 19, and the qualifying proceedings in the transcript of the record filed in the Circuit Court of Appeals under Case No. 3382; this is an inventory of the estate of General Domingo Diaz, showing that he died possessed of the property of Lo de Caceres.

The Court:

He died without a will?

Witness:
He did not leave any will.

The Court:
The instrument may be admitted.

209 The Court:
Objection overruled.

Mr. MacIntyre:
I objected on the ground it is only certified by the mayor.

The Court:
The record shows it has already been approved.

Mr. MacIntyre:
So has every other exhibit,—every other instrument in the former record—

The Court:
(Interrupting): But here's a point that ought to be admitted in evidence; this man died and if he owned that land at the time he died, and if he owned the land his son would inherit it; it goes backwards, of course.

Mr. MacIntyre:
Exception noted.

The Court:
Now, proceed.

Judge Fairman:
At this point, if Your Honor please, in view of the rejection by the Court of Plaintiffs' Exhibit "A-1", I will ask permission to obtain from the Notary's office.

the deeds mentioned and described in this transcript or abstract of title to introduce as evidence in this case.

The Court:

I have nothing to do with that,—you can get all the certified copies you want.

Judge Fairman:

I am simply asking to offer to introduce them after I get these papers. I rest.

The Court:

Of course. The defense may commence.

Mr. MacIntyre:

I move the plaintiffs' case be dismissed for the following reason: the plaintiff so far has only introduced in evidence non-conditionally three exhibits,—the map made by Mr. Malsbury, and Exhibits "A" and "B"; every other proof of title, or every other evidence of title depended upon by the plaintiffs to prove their recorded title has only been admitted provisionally and conditionally, and is not yet fully before the Court, and has not been connected up; the plaintiff has rested his case before connecting up any of his chain of title. It is a further maxim of real estate law that the plaintiff can win only by the strength of his own title and not by the weakness of the defendant's title. The plaintiff has a claim of record title from 1736 to the present time which he has absolutely failed to prove by competent evidence before this Court.

The Court:

Just think over in your mind what you are trying to do. You have a complaint here to quiet title,—suppose I dismiss this suit?

Mr. MacIntyre:
We are in open and notorious possession of this land.

The Court:
The Court has not so found yet.

Mr. MacIntyre:
The Court has found we are in possession by ocular inspection.

The Court:
No, I have not found that—

Mr. MacIntyre:
The Court can certainly not find anything from the testimony of the plaintiff.

The Court:
I have not gotten to the point of deciding anything.

Mr. MacIntyre:
I ask to withdraw that motion for the moment; for the purpose of making another.

The Court:
The plaintiff has not proven any case so far: suppose I find for the defendant then where are you? You have got this still on your hands,—if I find the plaintiff has not proven title, when where are you?

Mr. MacIntyre:
Then it is our case.

The Court:
I do not think you would get very far; tomorrow morning he may file another complaint.

Mr. MacIntyre:
I ask to withdraw that motion.

The Court:
You may.

Mr. MacIntyre:
The plaintiff having rested his case, the defendant moves that all exhibits admitted conditionally on the promise of plaintiff connecting them up before finishing his case be stricken from the record, and all evidence based on those exhibits and admitted conditionally and provisionlly be likewise stricken.

The Court:
Motion overruled and exception. I told him he may have time to connect them.

Mr. MacIntyre:
Then he has not rested.

Judge Fairman:
Rested conditionally, until I can produce these documents; I cannot get the documents this morning.

Mr. MacIntyre:
The plaintiff has rested then.

The Court:
You are a little too spontaneous to-day; you want to think where you are at,—you may get in a hole you do not want to get into.

Mr. MacIntyre:
I would ask now that my first motion be re-made,—the one I made first.

The Court:

If you are going to make that motion I will sustain it, and you will be put in a hole; then you will learn where you are at.

Mr. MacIntyre:

May it please Your Honor, may we have a five minute recess?

The Court:

Yes.

(Recess taken).

Mr. MacIntyre:

We wish to withdraw the motion made for dismissal, and at this time the defendant moves for judgment in favor of defendant on the ground that plaintiff has failed to make his case and his allegations are not supported by his proof,—they are materially at variance.

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The Court:

I will overrule your motion for that, and if you want me to find that the plaintiff has not proven his case—

Mr. MacIntyre:

(Interrupting): We have withdrawn that; and now move for judgment.

The Court:

I will overrule that motion for judgment.

Mr. MacIntyre:

Exception.

Thereupon the defendant introduced in evidence the following testimony, exhibits, and translations thereof:

GUILLERMO PATTERSON, JR., the first witness called in behalf of the defendant, after being first duly sworn according to law, upon oath, testified as subjoined:

Direct Examination.

By Mr. MacIntyre:

Q. Mr. Patterson, what relation are you to Don Guillermo Patterson, the defendant in this suit

A. I am his son.

Q. Do you know of your own knowledge if your father is in possession, or has been in possession, of the land described in the answer in this suit as the land of Mata Redonda?

A. Yes, sir.

Q. Showing you plaintiffs' Exhibit "2", which was defendant's Exhibit "A" in the first suit, and so stated in the record, I will ask you to show from this map the lines of Mata Redonda, which your father has been in posession of, and is in possession?

A. The boundary line starts at the place marked Mata Redonda on this map, and goes northeast to a big hill called Algarrobo, which has three peaks on it—

Q. (Interrupting): Is that within the Canal Zone?

A. That is out of the Canal Zone.

Q. Keep in the Zone.

A. (Continuing): Taking that same line from Mata Redonda up to the limits of the Canal Zone at
212 a point between monuments 86 and 87. Then northwest to monument 80. And then down the

River Cardenas to the junction of the Palangana Creek, marked here "Rio Palangana"; then up stream to where another creek empties into the Palangana,—this second creek is called the Platanar; following the Platanar Creek to its headwaters; and from there a straight line back to the Mata Redonda.

Q. How do you know your father was ever in possession of that land?

A. I know he is in possession of that land because I went to farm with him in the year 1888, when I was a very small boy; and he stayed there two years taking care of the farm and having business with Mr. Duque, who was then the owner. He left there in 1890 and then returned and bought the farm himself in 1891, when we went there to live. I actually lived there for a number of years.

Q. Did your father at any time have a fence around this property?

A. When my father bought that property it was already fenced; a fence is shown here alongside the Porto Bello trail on this map (indicating Exhibit "2"), and that fence goes away outside the boundaries of the Canal Zone.

Q. Did Mr. Domingo Diaz, or Mrs. Catalina Lewis de Paredes, or Mr. Ramon Garcia de Paredes, or their predecessors, ever possess the land or any part of this land you have mentioned?

A. Never.

Q. Did your father live in the place marked Patterson's house on this map?

A. Yes, sir. One is marked "Patterson's Old House" and "Kitchen", and the other one is marked simply "Patterson". We lived in both places.

Q. Did Mr. Diaz know your father lived there?

A. He knew it because he said he bought cattle from my father, while we lived there.

Q. Did Mr. Diaz ever attempt to put you out of there?

A. He tried that before this Court after the Joint Land Commission awarded a sum of money for my property.

Q. What year was that?

A. In 1917.

Q. Ever before that did he or his predecessors ever attempt to interfere with your possession of this land in the Canal Zone?

A. No, sir.

Q. Did your father buy this land by recorded title?

A. Yes, from Messrs. Espinosa and Duque, who were the owners in 1891.

Q. Was that deed from Duque introduced in the trial in this case?

A. It was.

Q. Was there any objection to its intro-
213 duction?

A. None.

Q. And your father bought by deed from Mr. Duque?

A. Yes, sir; and Mr. Espinosa, in 1891,—February 3rd, I believe.

Q. And your father was in possession in all time since that?

A. Yes. He had a dairy farm there until 1899 until the Revolution, when he sold the cattle that was not taken by the soldiers, and left.

Q. Did you know Ramon Garcia de Paredes?

A. No.

Q. Did you know Ramon Garcia de Paredes who was attorney for Mrs. Catalina Lewis?

A. Yes, sir.

Q. While he was attorney-in-fact for his mother, did he know your father was in possession of the lands up to the fences indicated?

A. Yes, he knew that very well; in fact he recognized that our boundary line started there, and made the agreement to pay one-half of the cost of the inscription placed on those rocks.

Q. Start where?

A. At the spot called Mata Redonda.

Q. The other day in the ocular inspection made by the Court, there was pointed out to the Court a rock with an inscription thereon, what does that inscription read?

A. It reads: "Mata Redonda o Pena Hueca".

Q. By whom, and under what circumstances, and when, was that inscription made?

A. My father; as soon as he bought the property in 1891, his first idea was to find out what he had; he went to all the adjoining estates and wanted to find out their claims or boundaries; he agreed with Mr. Paredes to take the Porto Bello Road as the boundary between the two places, and Mr. Paredes agreed that the boundary be marked; then in 1891 he made that inscription; he paid a man to make that inscription.

The Court:

Were these land owners with whom your father made agreements, did they own land adjoining your father's?

A. Yes; he made an agreement with the man on the west side of the Cardenas River, and also with Mr. Paredes on the east side.

Mr. MacIntyre:

Was Mr. Paredes the predecessor of Mr. Domingo Diaz?

A. I believe Mr. Diaz bought that land from different persons; the land was divided into nine portions, and he bought one-ninth or two-ninths from each person.

The Court:

Was he the owner at the time your father made the agreement?

A. Yes, Mr. Paredes' mother was the owner.

Mr. MacIntyre:

Was he attorney-in-fact for his mother?

A. He was.

Q. Now, Mr. Patterson, in all times your father's predecessors in interest owned this land, according to the deeds introduced in this Court and in the former trial, did the Paredes family or the predecessors of Mr. Domingo Diaz, ever attempt to eject your father from those premises?

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A. No.

Q. Did the adjoining owners of Lo de Caceres know that your father was in possession of this land of Mata Redonda according to the boundaries you have mentioned?

A. Yes; in fact, Mr. Paredes and my father were on the best of terms, and they never disputed that at all, —the possession of that land inside the fence.

Q. Mr. Patterson, did your father make any improvements on that land, or spend any money?

A. My father spent every cent he had at the place, making fences around the Chapel, or near the Chapel,—there is a fence around there,—that is a big pasture made by my father; and he spent some forty-five thousand pesos on that land.

Q. Did your father ever build any buildings on the land in dispute?

A. He built a house in 1891 as soon as he bought the place; and then, about two years later, he changed that house, near where he had his man sleep,—and the cows were near there.

Q. Were those buildings claimed near the lines claimed by your father?

A. They are.

Q. Are they within the lands now in dispute?

A. They are.

Q. Now, Mr. Patterson, was there any building on that land when your father went there, at the place where your father built?

A. Yes, where he built the second house right opposite is a house marked "Zayas",—that house bore marks of being some fifteen or twenty years old at that time.

Q. Know who built that house?

A. Built by Zayas, I think.

Q. Did you know Zayas?

A. Yes, I met him.

Q. Meet him on those lands?

A. I met him in Mata Redonda in 1888.

Q. Was Zayas in possession of these same lands before your father bought them?

A. He was.

Q. To whom did Zayas sell?

A. To Mr. Duque.

Q. When did Zayas sell to Duque?

A. In 1888, I think, he sold him the last portion.

Q. To whom did Duque sell?

A. One-half to Espinosa in 1890 when my father got out and went to "La Union"; and then Mr.
215 Duque and Mr. Espinosa sold to my father in 1891.

Q. How many years prior to your father's occupancy were his predecessors in possession of those lands?

A. From 1695, according to the titles.

Q. During all that time did the owners of Lo de Caceres ever attempt to eject them from the land?

A. No.

Q. During all that time were the Lo de Caceres owners the adjoining neighbors?

A. It would be impossible not to be adjoining neighbors; they are bound to be.

Q. Did you, prior to the ocular inspection made by this Court, ever see the fence upon Mata Redonda along this Porto Bello Road?

A. Yes, I remember seeing that fence distinctly when we moved to live there in 1891 near the Mata Redonda marked on the map "Patterson's Old House"; I remember going through that gate.

Q. Do you know of your own knowledge that part of the fence known as the "Old Gate"?

A. Yes, I know it very well; it is the old gate placed there by my father in order to make the tenants who lived on the road to Mocambo,—to leave them come in here.

Q. What fence was that gate in?

A. In my father's fence; and it had two pad locks and the men on his land had keys.

Q. That gate was in the fence marking the boundary of Mata Redonda?

A. Yes, sir.

Q. And, to get into Mata Redonda you had to go through that gate?

A. Yes, sir.

Q. How many years back do you remember that gate and that fence as being in existence?

A. I believe the last time I was in the place was in 1913, and at that time the gates were there, and they were there for at least one or two years more.

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Q. How many years ago do you first remember having seen that gate?

A. I could not tell you exactly, but I remember it was after my father bought there that he built the gate; the people used to cut the wire, and he decided to put a gate there.

Q. Was that fence in existence when your father bought that land in 1891?

A. Certainly.

Q. That fence was the boundary line between Lo de Caceres and Mata Redonda?

216 A. Yes, sir; that fence enclosed the land belonging to my father and divided it from Lo de Caceres.

Q. Inside of this land are shown on the map a lot of proper names of people shown in the Mata Redonda estate; do you recognize any of those names?

A. Yes, I recognize a number of them and remember the names; for instance, the Ariso family which are here near the word "Largo" (indicating on Exhibit "2"), they were descendants from an old man whom my father had there in 1888 as main helper, his name was Pancho Ariso, his sons and grandchildren were born there and are still living there.

Q. To whom did they pay rent?

A. To my father, ever since I remember.

Q. I will point out another name, (indicating on Exhibit "2"),—Isaac Horace?

A. He did not stay there long. Alfred Reed stayed quite a while, and paid rent to my father. Philip Hernandez lived there twenty-five or thirty years and paid rent to my father. Goyo Majagua was a very old man, and he also paid rent to my father.

Q. Those people all live on part of the land shown on this map?

A. Yes, sir; as given in the title by which my father bought.

Q. How about Blas Garibaldi?

A. Yes, sir.

Q. Did he pay rent to your father?

A. Yes, sir.

Q. Prior to paying rent to your father to whom did they pay rent?

A. Mr. Duque and Mr. Zayas before that.

Q. From whom did Mr. Zayas buy?

A. Mr. Arauz, in 1876.

Q. Now to get this straight, you said your father bought from Mr. Duque?

A. Yes, sir; and Mr. Espinosa.

Q. Is your deed already introduced in evidence in this Court?

A. Yes, sir.

Q. What page of the former record?

A. The sale was made in two deeds; No. 26, marked Exhibit "T" on page 149, and deed No. 58, marked Exhibit "U" on page 155 of the record of transcript that went to the Circuit Court at New Orleans, under No. 3382.

Q. Mr. Patterson, is that the deed from Duque to your father?

A. Duque and Espinosa.

Q. From whom did Mr. Duque and Mr. Espinosa buy?

A. Espinosa bought from Duque in 1890, and Mr. Duque bought one-half in 1888 from Mr. Zayas; and a previous half from the same man in 1887.

Q. Are these deeds in the record?

A. In the record No. 3382 they are as fol-
217 lows: Exhibit "S" on page 145, by which Mr. Duque sells to Mr. Espinosa one-half of Mata Redonda. Exhibit "R" on page 140 by which Jose

Zayas Batista sells to Mr. J. G. Duque the remaining half of Mata Redonda. And on page 136 of the same record, Exhibit "Q", by which Jose Zayas Batista sells to Duque one-half of the property,—that is the first half.

Q. From whom did Zayas buy?

A. Mr. Arauz.

Q. Is the deed on record?

A. It is in the same record on page 128, marked Exhibit "P". There is a little difference here; Mr. Zayas bought the farm from Mr. Arauz in 1876, but a law suit was brought by Mr. Arauz for non-payment in 1883, and the land was sold at public auction, duly completed by the Judge before the Notary Public as the law required, and then the buyer was Mr. Juan Saintbois, who immediately left the property with Mr. Zayas, and give him the option to buy it; and this Mr. Zayas bought that same land as he had before, he never was out of physical possession; he bought it back in the year 1884, I believe.

Q. Does the deed appear in the record?

A. That is the deed marked "B" on page 128.

Q. From whom did Arauz buy?

A. As I explained already, Mr. Zayas bought this the second time, as shown in defendant's Exhibit "B", appearing on page 128. Now, Mr. Saintbois bought the land in a judicial sale, marked defendant's Exhibit "O" on page 123; and Mr. Zayas had bought before that from Mr. Arauz, as shown on defendant's Exhibit N, on page 118; this is when Zayas bought in 1876.

Q. From whom did Mr. Arauz buy, and when?

A. Nazario Quintero, as shown on defendant's Exhibit "M" on page 113.

Q. Is that Mr. Nazario Quintero the same man whom witness Ricardo Arias was speaking about?

A. That is the same man.

Q. What year did Arauz buy from Quintero?

A. In 1871.

Q. From whom did Quintero buy this land?

A. From Maria de las Nieves Collet de Martelo.

Q. In what year?

A. As shown in defendant's Exhibit "L" on page 103; the sale was made in March, 1862.

Q. In what page of the record does that deed appear?

A. 103 to 112.

Q. From whom did Mrs. Collet buy this land?

A. From Jose Carmen Rivera.

Q. By public deed?

A. By public deed, according to the record here, shown as Exhibit "K" on page 100.

Q. In what year did Mrs. Collet buy from
218 Captain Rivera?

A. 1859.

Q. From whom did Rivera buy this land?

A. From the heirs of Jose Isidoro Noriega.

Q. By deed?

A. By deed.

Q. That appear in the record?

A. That deed appears in the record on page 84, marked as defendant's Exhibit "J".

Q. In what year was that, did you state?

A. In 1854, August 31st.

Q. From whom did Noriega buy this land, and when?

A. From Mrs. Maria Josefa Miro, widow of Gomez.

Q. Is that the same Miro that Mr. Arias stated was the daughter of Pedro Miro?

A. Yes, that is the same Miro, who was the daughter of Pedro Miro and Eusebia Jimenez de Miro, he said.

Q. What year did she sell this land?

A. April 26, 1841, the deed is on page 81, defendant's Exhibit "I".

Judge Fairman:

If your Honor please; I must state that while I have objection to all this evidence, I am waiting until the witness closes in regard to the various documents to make the objection.

Mr. MacIntyre:

(Continuing): When these deeds were introduced in evidence was there a certificate authenticating the signature of the Notary attached?

A. Yes, sir.

Q. Is that the same certificate which I introduced in evidence yesterday?

A. Yes, sir.

Q. At the time when those deeds were originally introduced was that certificate attached to them and introduced with them?

A. It was.

Q. On what page does that certificate appear in the record?

A. It is marked here defendant's Exhibit "W" on page 231.

Q. Read that entry in the record concerning that.

A. (Reading): "Defendant's Exhibit "W". Certificate of the Secretary of Foreign Relations of the Republic of Panama as to the seals and signatures of the Notaries on all of the instruments heretofore introduced, which exhibit likewise bears the signature and seal of the Executive Secretary of the Canal Zone Government."

Q. That certificate you say was attached to the bunch of deeds which you have testified from?

A. Yes, sir.

A. And refers to them?

A. Yes, sir.

Q. Was it introduced in evidence together with the deeds at the time they were introduced?

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A. Yes, sir.

Q. And accepted by the Court as proper certification of those instruments?

A. It was.

Q. That is an unbroken line then, Mr. Patterson, from the sale of Mrs. Miro de Gomez to Noriega, to the time your father bought?

A. Yes; from 1841 to 1891.

Q. Is there no break in that line at all?

A. No.

Q. Did the same land pass by all those various deeds?

A. Yes, sir.

Q. Were each and every one of these parties in possession of those lands from that time?

A. Some of the deeds state they were already in possession when they bought the land; and besides that, the land itself bears marks of possession.

Q. Speaking of Noriega, you know of your own knowledge any acts of possession he did, or built on that land?

A. He built a brick foundry, and I have seen the brick oven that was built right near the place where later on Mr. Zayas built his house, and later on my father built his second house there.

Q. That brick oven was—

Judge Fairman:

(Interrupting) : Are you through with this witness about the various exhibits? I do not want to make exceptions to every statement of the witness.

The Court:

If this evidence all goes in, then you better make your exception.

Judge Fairman:

The documents to which you referred to as being contained in the former transcript of record in this cause: you have certified copies of the originals of those documents in your possession?

A. They are certified already by the Secretary of Foreign Relations and—

Q. No, you do not understand; you have the copies properly certified of the various documents?

A. Yes, I have.

Q. I object to any evidence of the witness with respect to any documents named in this transcript of the record (indicating) as not being the best evidence; the documents themselves being the best evidence.

The Court:

He has not stated any contents of them; he has only stated the titles.

Mr. MacIntyre:

We already moved that all evidence formerly introduced should stand, and they were all introduced.

Judge Fairman:

Subject to proper objection; I am objecting to any documents contained in this record on the
220 grounds that the documents are the best evidence.

Mr. MacIntyre:
They are already in evidence.

The Court:
You will have to reach a point where they are in evidence.

Mr. MacIntyre:
They are already in evidence.

The Court:
They have a right to object to anything.

Mr. MacIntyre:
Our motion said 'all evidence at the former trial shall be considered by this Court.'

The Court:
I admit all that is competent.

Mr. MacIntyre:
If they have any objection to the competency, then they are out.

Judge Fairman:
We want the production of those instruments.

Mr. MacIntyre:
Your Honor knows yourself these instruments were in Court, and you allowed us to take them temporarily to be re-certified.

Judge Fairman:
We want to see if they are properly authenticated.

The Court:
Proceed:

Judge Fairman:
The objection is overruled?

The Court:
Oh, yes, he has not stated any contents yet.

Judge Fairman:
Exception.

Mr. MacIntyre:
The contents are in the record. Now Mr. Patterson, I asked you about that brick oven; was that the same brick oven pointed out to His Honor during the ocular inspection?

A. It was.

Q. Locate that on the map as near as you can?

A. (Examining Exhibit "2"): It is marked "Brick Oven",—right next to my father's second house; and Mr. Zayas' house.

Q. Mr. Patterson, how long have you known the existence of that brick oven?

A. Ever since I went to live on that portion of the land on Mata Redonda.

The Court:
What year was that?

A. 1891; I went there in 1888 before.

Mr. MacIntyre:
What was the condition of that old oven when you first saw it in 1891,—new or old?

A. Like it looks to-day,—it was very old; the roof of it was already sunk, as far as I can remember; the oven, to-day, is almost covered with dirt.

Q. Do you know by public repute and reputation who built that oven?

A. Jose Isidoro Noriega.

Q. When was he in possession of the land?

A. 1841 to 1854.

Q. Is that particular point within the bounds of the land now claimed by Lo de Caceres as belonging
221 to them?

A. It is.

Q. And from 1841 to 1854 Mr. Noriega lived at the place where that oven now is?

A. I imagined he did; he must have had some other buildings as he is not likely to build an oven and have the rest of the factory somewhere else.

Q. When you say that you have heard from public repute as to who built that ancient oven, can you name any particular people who have handed down that tradition?

A. A lot of people,—all the old people in the neighborhood, and also Noriega's descendents; one of Mr. Noriega's children, Mrs. Florencia Noriega de Hincapie, is still living, and she remembers very well when her father had that brick factory.

The Court:

How old is she?

A. She is some eighty years old.

Mr. MacIntyre:

Is she one of the children named in the record as one of the minor children of Noriega?

A. She is one of the children who were forced to make that sale in 1854.

Q. Now, Mr. Patterson, who was owner of Mata Redonda prior to Maria Josefa Miro de Gomez?

A. Her mother, Eusebia Jimenez de Miro.

Q. Did Mrs. Jimenez de Miro ever execute any deeds, or commit acts of ownership of the estate of Mata Redonda?

A. She did.

Q. To whom?

A. To her son-in-law, Mr. Gregorio Gomez, Jr.

Q. When?

A. 1832.

Q. You have a copy of her act?

A. Yes.

Q. (Handing you instrument marked defendant's Exhibit "B-1", together with its translation, I will ask you to state what that is?

A. This is a mortgage deed.

Q. From who to whom?

A. Mrs. Jimenez de Miro to Gregorio Gomez, Jr.

Judge Fairman:

Before going any further, I will ask the witness who made this translation?

A. That was made by a boy employed by me.

Mr. MacIntyre:

Has it been checked by Mr. Sheibley?

A. I think he checked it once with me.

Judge Fairman:

I notice the translation submitted is written on one side with a purple ribbon, and apparently on the other is carbon; there is no authentication whatever.

Mr. MacIntyre:

Look again.

Judge Fairman:
This blanket?

Mr. MacIntyre:
No; that is attached right to it.

Witness:
It is attached right to it.

222 Mr. MacIntyre:
I wish to state the exhibit we are offering is pages 13, 14, 15, 16, and 17, of the defendant's exhibit marked "B-1".

The Court:
What does it purport to be?

Mr. MacIntyre:
It is a mortgage deed by Mrs. Jimenez to her son-in-law, Gregorio Gomez, Jr., in 1832; properly certified.

Judge Fairman:
There is no translation of this certificate.

Mr. MacIntyre:
There is a translation, of course. (To witness): Who made this translation?
A. Mr. Sheibley made that translation.

Judge Fairman:
I am not disposed to be technical, but there is one point I would like to raise, the certification of the signature of the Notary is made by the Secretary of Foreign Relations; are the Notaries of the Republic of Panama under the office of the Secretary of Foreign Relations?

Mr. MacIntyre:

Whether they are or not, our Code provides that the signature of the custodian of the record must be certified by the Secretary of Foreign Relations of Panama; all the Secretaries of Departments are supposed to take judicial notice of the Notaries who are official custodians of all documents in Panama.

Judge Fairman:

Before I offer any objection,—this certificate refers to three documents attached, and if I made an exception to one, I probably should make objection or exception to all, and I would like to have the whole proposition identified and translation furnished so that if I got any objection to make, I can make it; otherwise to detach your documents.

Mr. MacIntyre:

I am at this time deraigning my title and showing that Mrs. Jiminez de Miro was the owner and placed a mortgage on the property,—and not Pedro Miro.

The Court:

The Judge is raising the question that the papers are not all together.

Mr. MacIntyre:

They are all together. (Handing exhibit in question to the Court for examination.)

Judge Fairman:

We object to the introduction of the mortgage, first on the ground that there is no property that I can find that is described in this mortgage, it does not state on what particular property the mortgage is given, and

naturally does not refer to any property in dispute in this case. Second, the certificate is not properly certified. And third, that the translation annexed is either incorrect or has been altered or changed, especially in one material part, as to a date, from
223 the time it was originally written,—the changes being in ink and in pencil.

The Court:

There are two things that have to be investigated; if there is anything in the mortgage to describe the real estate, and second, if there is an alteration made.

Mr. MacIntyre:

The alterations were made by Mr. Sheibley.

The Court:

He has got an objection in.

Mr. Sheibley, (Official Translator):

It is an immaterial correction.

Judge Fairman:

If it is in accordance with the proper translation, I withdraw my objection, but as to this being a conveyance of any real estate I do not perceive it.

Mr. MacIntyre:

This is a mortgage given by Mrs. Jiminez de Miro, the widow of Pedro Miro, to her son-in-law. (Reads):

"In the City of Panama on September 18, 1832. Before me, the undersigned and numbered Notary Public of this Province, and before witnesses that will be mentioned, appeared Mr. Manuel Monteral of this City and Commerce as attorney for Mrs. Maria Eusevia Ximenes, who resides in Chepo, and exhibiting before

the undersigned Notary Public a Special Power of Attorney which she has given him for this transaction and which is inserted in this instrument, he stated: That he makes it known through these presents that Mrs. Maria Eusevia Ximenes de Miro owes Mr. Gregorio Gomez, Jr., eighteen hundred dollars, current money which she has received from him to pay back at the stated period of three years which began to be counted since July 30th, of the present year; that her obligation is to pay six per cent, as commercial interest during the last two years of the stated period. That he also makes it known and admits that to answer for said obligation she has mortgaged to him the estate known as Mata Redonda and since the said estate is owned solely by her because she bought it herself with her own extradotal money, (con su dinero dotal), she has not authorized any one not given power of attorney to anybody to use in trade the said estate whether she be absent, alive or dead, on this account no one, not even herself would have the right to sell, mortgage, divide or diminish it in any way even with the creditor's consent if in the meantime said mortgage has not been paid up; this being a privilege which she wishes to establish of her own free will, and if any one should ever violate it, such an act will be null and void, as preferred against the true owner's will and against a covenant not to sell, mortgage or diminish it, and Mr. Gregorio Gomez, Jr., the mortgagee, or whoever may represent his legal rights will have the right to take it away from whomsoever may be wholly or partly in possession of it even if it shall have passed to third, fourth, or further possessors. The power of attorney states exactly as follows: Be it known that I, Maria Eusevia Ximenez, make it known through these presents that I hereby give Mr. Manuel Monteral of Panama, as ample and

sufficient power of attorney as in law may be required to bind me through an instrument to be executed in my name, to admit that I owe Mr. Gregorio Gomez, Jr., eighteen hundred dollars and that I am under obligation not to mortgage, diminish nor dispose in any way whatsoever of my estate of Mata Redonda, bought by myself with my own extradotal money (con mi dinero dotal) and that I have mortgaged it to him, establishing a lay privilege in his favor during my life or after my death and to make all statements required by law to make the instrument valid. This power of attorney has been executed in the parish of Chepo on the twelfth day of September, 1832; and the giver of this power of attorney whom I, the Judge, second substitute in actual discharge of duty, in this Parish, certify that
224 I know, thus stated and signed these presents with Messrs. Manuel Jose Dutary and Juan de Dios Chanis as witnesses:—Maria Eusevia Ximenez.—M. J. Dutary,—Juan de Dios Chanis.—Before me—Je. Maria Lopez. The above inserted power of attorney is an exact copy of the original; and therefore the maker of this instrument, whom I, the undersigned and numbered Notary Public of this Province vouch that I know, in testimony thereof, so stipulates and signs with the witnesses Messrs. Manuel Maria Garcia de Paredes, Pedro Hurtado, and Jose Ventura Calvo, residents appearing after citation and special request.—Manuel Monteral.—J. Rule Patino.—Notary Public of this Province.

'This copy which I issue on one sheet legal cap at the request of Mr. Guillermo Patterson, Jr., in Panama, the 9th day of November, 1920, agrees with the original thereof.

(Sgd.) ALFONSO FABREGA,
(Stamp Seal) Notary Public Number One."

Judge Fairman:
There is one other objection; it refers in there that it is executed by an attorney-in-fact, and no power of attorney is annexed.

The Court:
It says he produced the instrument before the Notary.

Judge Fairman:
Well, where's the instrument?

Mr. MacIntyre:
"The power of attorney states exactly as follows: Be it known that I, Maria Eusevia Ximenez, make it known through these presents that I hereby give Mr. Manuel Monteral of Panama, as ample and sufficient power of attorney as in law may be required", and so forth,—part of the document itself.

Judge Fairman:
It does not state whether or not this Mrs. Miro was married at the time.

Mr. MacIntyre:
It states "de Miro"; Mr. Diaz admitted she was the wife of Pedro Miro.

Judge Fairman:
Was her husband in being at the time?

Mr. MacIntyre:
He was, and tried to sell this property.

The Court:
It says that she bought this property with her own money; the objection is overruled.

Judge Fairman:
Exception saved.

The Court:
And the instrument admitted as part of Exhibit "B-1".

Mr. MacIntyre:
(Continuing): How did Mrs. Jimenez come in possession of this property?

A. Mrs. Jimenez bought that property from her brother, Pedro Jimenez, according to defendant's exhibit "H", appearing on page 78 of the transcript of record, No. 3382, of the Circuit Court of Appeals.

Q. In what year did Dr. Pedro Jimenez sell that property to Mrs. Jimenez de Miro?

A. In the year 1829,—October 12, 1829.

Q. Is the deed in evidence?

A. It is; as defendants Exhibit "H".

225 Q. In what capacity did Dr. Jimenez make that deed?

A. He made that deed as testamentary executor of the estate of his uncle, Luis de la Barrera y Negreyros.

Q. Speaking of Mr. Barrera y Negreyros, is he the man mentioned as defendant in the old judgment of 1790 brought by Mrs. Clara de Carmen Gongora de Caceres against the estate of Mata Redonda, if you know?

A. According to Exhibit "A" of the plaintiffs.

Q. According to Exhibit "A"?

A. According to Exhibit "A," and translation in this record on page 23, he is the same man.

Q. He was the one who was served with the complaint of Mrs. Clara de Carmen Gongora de Caceres in 1790 according to the exhibit of the plaintiffs herein?

A. Yes, sir.

Q. Do you have any method of knowing how Luis de la Barrera y Negreyros came in possession of the estate of Mata Redonda?

A. I have not.

Q. But according to plaintiffs' Exhibit "A" he was the party to be notified of the law suit in 1790?

A. Yes.

Q. And Pedro Jimenez, as testator of the estate of Luiz de la Barrera y Negreyros, sold this land to Mrs. Maria Jimenez in 1829?

A. He did.

Q. Does the complaint of Mrs. Clara del Carmen Gongora de Caceres state that Negreyros was in possession, and asked to have him ejected, back in 1790?

A. It does not; it said that Mrs. Juana Baravena was in possession of a section of the land known as Gallinazos and Sonsonate, and belonged to Negreyros and he was notified on May 12, 1790.

Q. Then your predecessors in interest were in possession of the land now in dispute in 1790?

A. Yes, sir.

Q. From the time Mr. Negreyros was known to be in possession and ownership of the land, back to the time they belonged to the Crown of Spain, and were granted from Spain to private parties, how long a gap exists?

A. It is shown here in the record by defendant's Exhibit "G" that in 1742 Mrs. Piementel was owner and legal heir of her husband to the estate of Mata Redonda.

Q. Doctor, you have introduced in evidence in this Court as Exhibit "G" a certain Crown grant from the Kingdom of Spain, granting the lands of Mata Redonda to private parties; in what year was that grant made?

A. That grant was made in 1695,—February 28, 1695.

Q. Was that before Lo de Caceres obtained its Crown grant?

A. Yes; Lo de Caceres obtained a Crown grant in 1755, finally confirmed by the Court, while this
226 is in 1695,—that makes it sixty years later.

Q. Then we know from documentary evidence properly introduced in this Court, that Mrs. Pimentel was owner and in possession of that land in 1742?

A. Yes; she was.

Q. Does defendant's Exhibit "G" state the history of that land, and give definite owners from 1695 to 1742?

A. Yes, sir; Exhibit "G" on page 74 of the record, No. 3382, states that Mrs. Tomasa Ramos was the one who got the grant from the Crown, and placed in favor of the Church two thousand pesos, that is what they call a quit-rent; then the Church sold the land to—

Q. (Interrupting) Wait a minute. Is it not a fact that under the old Spanish laws and the laws of the Roman Catholic Church, prior to practically modern times, that—

Judge Fairman:

Better qualify the witness.

Mr. MacIntyre:

Every Panamanian knows this: (Continuing)—that all Crown grants carried with them a "string,"—that is,—that the Church was to receive so much money from the land granted by the Crown?

A. Most of them; especially the old deeds all have this quit-rent, called in Spanish "censo," in favor of the Church, leaving to the Son, Holy Ghost, Virgin Mary, and so forth, certain sums.

Q Now when was that eliminated by the Republic of Nueva Grenada; when did they quit with the Church and eliminate this rent?

A. A little before 1890.

Q. Then, Doctor, what you are speaking of,—these quit-rents, due the Church,—were incidently part of the Crown grant?

A. They were incidently parts; this Father Casas, who is well known in history, became possessed of this land, and sold it to another party, and he got it back. and then sold it to Domingo Pimental, and he died and his widow, Jacinta Nanes, became the heir and owner of the land,—and it is so stated in Exhibit "G."

Q. Doctor, speaking of Father Casas, is he the priest reputed to have been the builder of the old Roman Chapel on the lands of Mata Redonda?

A. I have heard people say, but I cannot testify.

Q. That is tradition?

A. Yes.

The Court:

I think we will adjourn until 9:00 o'clock
227 tomorrow.

April 22, 1921.

(Court resumes session at 9:30 a. m. and continues the hearing of testimony, as follows):

GUILLERMO PATTERSON, JR., continues as witness for the defense.

Mr. MacIntyre:

Dr. Patterson, you have testified, and there is in the record,—there are in the record, rather,—the following instruments conveying interests in real estate in the lands of Mata Redonda which are at present in dispute, for instance, a mortgage and entail put upon Mata Redonda property by Mrs. Jimenez de Miro to Gregorio

Gomez, Jr., her son-in-law; and the sale made by Maria Josefa Miro to Jose Noriega; the sale made by the heirs of Jose Noriega to Jose del Carmen Rivera; the sale made by Rivera to Martelo and wife; the sale made by Mrs. Collet de Martelo to Nasario Quintero; the same made by Quintero to Pedro Corsino Arauz; the sale made by Arauz to Zayas Batista; the sale made by auction to Saintbois; and the deed from Saintbois to Zayas; the deed from Zayas to Duque; and the deed from Duque to your father—

The Court:

No, Duque sold and conveyed part to Espinosa.

Witness:

Mr. Zayas sold one-half to Duque, and later on the other half; then Duque sold a half to Espinosa; and later each sold their one-half to my father.

Mr. MacIntyre:

The records of those sales are all here?

A. Yes, sir.

Q. All of these sales and titles were recorded?

A. Yes, sir.

Q. We introduced previously, while Don Ricardo Arias, was on the stand, certain instrument, being Exhibit (e) of our Exhibit "A-1," said exhibit being the purported ancient document containing copy of the judicial decision made in a law suit between Mrs. Josefa Miro de Gomez and Mr. Jose Garcia de Paredes, to set aside the sale of a portion of Mata Redonda which had been made by Pedro Miro to Paredes; leaving aside that ancient document, Mr. Patterson, have you any knowledge that such law suit existed?

A. Yes; I looked in the Notary office myself for about a year for that proceedings, and I found some statements taken by Mr. Paredes, and also found the title page of that proceedings, but the rest of the proceedings were not found at the time. Later on when I needed a
228 copy of them, I asked the Notary to get them out for me, but he could only give me the copy of the statements, and could not find the title page.

Q. In order that the Court may fully understand, Mr. Patterson, will you explain to him what you mean by "statements" of Paredes?

A. Mr. Paredes took a sort of deposition of some witnesses, and these witnesses gave sworn statements in that way, and these statements were filed in this proceedings.

Q. And were protocolized by the Notaries?

A. Yes, sir; they are there now.

Q. How about the rest of the case,—the complaint of Mrs. Miro, the answer of Paredes, and the final judgment,—are they in the Notary's office?

A. I have not been able to see them, and I do not think they are; and the Notary has certified they are not.

Q. Do you have that certificate of the Notary?

A. Yes, sir.

Q. I will show you, Mr. Patterson, defendant's Exhibit "B-1," page 3, and ask you what is that instrument?

A. That is a certificate given by Mr. Alfonso Fabrega, Notary Number One, of the Republic of Panama.

Judge Fairman:

I do not know what the purpose of this is.

The Court:

To prove a lost instrument?

Mr. MacIntyre:
Yes, sir we wish to show that the original has been lost, but this copy (indicating Exhibit "B-1") has been acted on over thirty years.

Judge Fairman:
Unless it connects up materially, I offer objections on the ground that it is irrelevant to any grounds at issue.

The Court:
Objection overruled.

Judge Fairman:
Exception.

Mr. MacIntyre:
By whom was this translation made?
A. Mr. Sheibley, the official translator and interpreter of this Court.
Q. I will ask you to read the translation of page 3, of defendant's Exhibit "B-1."
A. Reading:

"Alfonso Fabrega, Notary Public No. 1 of the Circuit of Panama, certifies: that the protocol of this notarial office No. 1 have been examined, and there has not been found any suit whatever between Mrs. Josefa Miro and Mr. Jose Garcia de Paredes. There has only been found some testimony requested by Mr. Paredes. Mr. Mariano Sosa, assistant in this office, advises that, at the time of the incumbency of Don Francisco Antonio Facio as Notary, Dr. Guillermo Patterson, Jr., was personally examining the archives and found and showed to him the title page of said suit, which title page it has been impossible to again find at this time.

229 "At the request of said Dr. Guillermo Patterson, Jr., I issue this certificate in Panama this the 10th day of June, 1919.

"(Sgd.) ALFONSO FABREGA.
"Notary Public No. 1."

Q. Now, Mr. Patterson, the Notary certifies that he did find certain depositions which had been taken by Mr. Paredes; do you have a certified copy of them?

A. Yes, sir.

Q. Showing the witness page 7 of defendant's Exhibit "B-1," I will ask the witness what is this document?

A. These are the depositions, or statements, taken by Mr. Paredes and introduced in the law suit.

Q. What is the date of these depositions?

A. They were taken in 1832.

The Court:

What law suit was it?

A. It does not say here; it just says: "Statements taken by Jose Garcia de Paredes and introduced in the law suit"; and at the end of it, it states that the foregoing constitutes pages 50, 51, and 52 of the proceedings.

Mr. MacIntyre:

Therefore, there were at least fifty-two pages in this proceeding?

A. At least that.

Q. Does the signature of any Judge or Clerk of the Court appear in this part of the proceedings which you have?

A. There are two: Mr. Francisco Alvarado, senor juez parroquial; and then the Clerk, J. R. Patino.

Q. Mr. Patterson, in the ancient copy of the judgment, are these depositions referred to?

A. Yes, sir.

Judge Fairman:

The judgment speaks for itself.

Mr. MacIntyre:

We are merely laying the foundation for the permanent introduction of that ancient document. (To witness): In the ancient copy of the judgment which was introduced previously as defendant's Exhibit "A-1," page (e), which was among the papers called the "Nasario Quintero papers,' in a cover written by Carlos Ycaza Arose mena, and according to the testimony of witness Arias, Carlos Ycaza Arosemena was attorney for Quintero; in that Exhibit (e) of "A-1,"—these depositions now offered to you,—refer to?

A. Yes; in that exhibit, which is a judgment in a law suit between Mrs. Maria Josefa Miro against Mr. Paredes, these depositions are referred to, and one of them is copied in it.

Q. One of them is copied in the judgment?

A. Yes, sir.

Q. The attorney wishes to state that he is introducing this evidence to lay the foundation for the introduction of the ancient copy of the judgment,
230 by proving that there was a law suit, and that all of the papers of that law suit have been lost except pages 50, 51, and 52, and what we will introduce is a copy of the original, which copy if over thirty years old, and has been in the custody of the interested parties, and has been acted upon by the parties. We offer these depositions in evidence, being pages 7, 8, 9, and 10, of Defendant's Exhibit "B-1," together with its translation.

Judge Fairman:

We object to the introduction of documents mentioned on the ground that it is irrelevant and does not tend to prove or disprove any issues in this cause.

The Court:
Objection overruled, and the Exhibit admitted of the pages noted.

Judge Fairman:
Exception.

Mr. MacIntyre:
Mr. Patterson, when the heirs of Noriega sold the land to Rivera, what Judge, if any, approved the sale of the heirs to Rivera?

A. The Judge at the time was Judge of the Second Circuit Court, who was Jose Garcia de Paredes, the same gentlemen who was supposed to have bought it, or did buy that land, by the deed of 1832.

Q. Was this Jose Garcia de Paredes the defendant in the suit brought by Josefa Miro?

A. Yes, sir.

Q. And the ancient document,—Exhibit (e) of defendant's Exhibit "A-1,"—against whom is that judgment rendered?

A. Against Jose Garcia de Paredes.

Q. Did Jose Garcia de Paredes as Judge, when the Noriega people sold the lands of Mata Redonda, approve the limits of Mata Redonda as contained in the judgment against himself?

A. Yes, sir; they were inserted in the proceedings.

Q. When the Noriega heirs sold to Rivera, what descriptions of boundaries were used in the deed?

Judge Fairman:
I object; the deed speaks for itself.

The Court:
Yes, that is right; sustained.

Mr. MacIntyre:

I will show you defendant's Exhibit "J," or a translation thereof, already in evidence--

Judge Fairman: (Interrupting):

The original document of that has not been offered in evidence.

Mr. MacIntyre:

The document was offered and admitted in this Court in the first suit, and unless it is incompetent it is still here.

Judge Fairman:

I demand the introduction of this in this case.

231 The Court:

No, you have to make your motion to strike that from the evidence which has already been admitted on the ground that it is incompetent,—or whatever ground you have; that evidence is all in the case; if there is anything incompetent it is up to you to get rid of it.

Judge Fairman:

If your Honor please, there has been such a blanket proposition entered into by the defendant in regard to the submission of the old record and its proceedings, which I do not see how we can oppose intelligent objection to anything, except general objection, and I have attempted to do that. Now, we come down to specific details; I object to any mention of this Exhibit "J" in the old transcript of the record without the introduction of the original document from which this transcript was made; as the transcript in itself is incompetent to prove or dis-

prove the contents or validity of the document itself; in fact, in the transcript of the record there does not appear the proper certificates.

The Court:
I will have to hear that on motion now; the only point he makes that I can act on is that the records show that the instrument was not properly certified; I will have to hear from you.

Mr. MacIntyre:
On page 231,—from pages 229 to 231,—is the following (reads):

"Thereupon the defendant introduced in evidence the following exhibits, translations thereof being annexed to the defendant's answer as follows: "G," "H," "I," "J," "K," "L," "M," "N," "O," "P," "R," "S," "T," "U," "V," and "W,"—being certified by the Secretary of Foreign Relations of Panama as to the seals and signatures of the Notaries of all the instruments heretofore introduced, as well as the officials of the Government of the Canal Zone." * * *

The Court:
The record seems to show proper certificate; I will overrule, and give you exception.

Judge Fairman:
We still move that the original document, named Exhibit "J" be produced by the defendant.

The Court:
Objection overruled, and exception.

Judge Fairman:

Exhibit "J" is a judicial proceeding which the certificate which he has read is not a proper certificate; it certifies to the signature of a Notary and not to a judge or magistrate.

Mr. MacIntyre:

It is not a judgment, or even a judicial sale; it is a warranty deed, and in the deed the vendor cites an order of the Court ordering him to sell; that is only one of the recitals of that deed.

232 The Court:

Proceed; I have ruled on it.

Mr. MacIntyre:

I wish to read instrument "J." (Reads.)

"Number three hundred and two.—In the City of Panama, on the twenty-seventh day of July, eighteen hundred and fifty-four, before me, Marcelino Lopez, Deputy Notary Public, acting Notary Public, during the absence on leave of the principal Notary, personally appeared Messrs. Julian Noriega, in his own name and as curator of his legitimate brothers, who are under age, named Tomas and Manuel B. Noriega; and Leandro Arosemena, on behalf of his legitimate wife, Dominga Noriega, and as tutor and curator of the minor Florencia Noriega, and as tutor of Juana C. Noriega, all native and residents of this city, of age, and well known to the undersigned Notary Public who attests, and produced the receipt showing that the Registrar's fees provided by the law, have been paid, as is recorded in the document at page 163 of the corresponding folio; they produced also a minute, requesting me to extend, in conformity

with the law, a warranty deed for the sale of a farm known as Mata Redonda, which they have sold to Mr. Jose del Carmen Rivera; also the documents referring to the appointment of guardians to said minors. These documents are copied hereinafter and read as follows: Receipt.—On the eleventh page of the Register kept in this office for the registration and record of mortgages for this month, the following item is recorded: Seventh day, number thirty-six. Mr. Luis Urriola paid twenty-six reals as the register fees for the warranty deed recording the sale of the farm known as Mata Redonda, which Messrs. I. Noriega, Leandro Arosemena, as heirs to their late parents Isidoro Noriega and Manuela Villalobos, have agreed to sell to Mr. Jose del Carmen Rivera, said fees being detailed as follows: ten reals as the fee on the quit-rent of two thousand pesos at the rate of three per cent. per annum that lies on said farm; and sixteen reals on the sum of eight hundred pesos which is the price for the sale of said property. Twenty-six reals,"—

then follows the proper signatures. I now go to page 90 of the record, which is part of the same instrument, and which contains the following recital in this deed: (reads)

"Mr. Second Judge for this Circuit: The undersigned, Maria Marta Rocabado, legitimate wife of Mr. Jose del Carmen Rivera, duly authorized by him to represent him and to appear before the Court, as may be seen from the power of attorney I enclose herewith with the request that it be returned to me, beg to state respectfully: that a few months ago my husband purchased from Mrs. Manuela Villalobos the farm of Mata Redonda but the proper warranty deed was not extended because some

of the interested parties who had to sign said deed were absent. In the meantime Mrs. Villalobos died, as may be seen from the accompanying certificate of interment, before her death she had only signed the warrant for the sale, as also did her son, but, as the other interested parties who were away are now here, I deem it advisable that Messrs. Jose Julian and Jose Anjel Noriega and Mr. Leandro Arosemena, the husband of Mrs. Domingo Noriega, be notified and requested to state plainly whether they ratify the sale made by her mother Manuela Villalobos. Moreover, as there are four minors among them, it seems proper to appoint previously a curator and tutor to said minors in order that he may ratify also the warrant for the sale and sign the warranty deed which is to be extended, as well as Tomas and Manuela Noriega, who are over fourteen years of age, and Prudencia and Juana Noriega, who are under fourteen. When these duties shall have been performed, I request the Court to deliver a testimonial thereon, at my expense, so that it may be inserted in said warranty deed. As this request is only fair, I hope the Court will grant it."

This is signed by Mrs. Rivera. (Continues reading):

233 "Let the preceding petition be communicated to Messrs. Jose Julian, Jose Anjel Noriega and Leandro Arosemena. With regard to the other requests contained in said petition, the Court will decide in due time."—

this is signed by the Judge, Jose Garcia de Paredes. Then there is a final recital where the parties agree without any judicial proceedings, and the Judge said that it was all right and ordered the warranty deed to

issue; the deed issued is in the record,—from page 84 to 99. I will read the last order of the Court: (reads)

"Second Court of the First Circuit of the Province of Panama.
Panama, July 26th, 1854.

One of the ways by which a lawsuit may be ended being the agreement of the interested parties upon the matter under discussion, it is evident that Mrs. Maria Marta Rocabado de Rivera acknowledges the claim presented by the heirs of the late Mrs. Manuela Villalobos against her husband Mr. Jose del Carmen Rivera for the value and accrued interest of the farm of Mata Redonda, which was sold to him. Therefore these proceedings for the granting of the warranty deed should be closed and the testimony which has been requested should be issued so that it may be inserted in said warranty deed; the power of attorney should also be returned after leaving a copy and note of its having been returned. After the granting of the deed and the payment of the sum agreed for the sale with the accrued interest, a judicial receipt shall be given for same.

(Signed) GARCIA DE PAREDES."

then follows the authentication of the deed.

The Court:

How about the minors; how did they get rid of those?

Mr. MacIntyre:

There was a curator appointed for the minors, and the curator signed, and the Court approved it. (To witness): Now, Mr. Patterson, the description of the property which is given in the deed in Exhibit "J," from the heirs of Noriega to Rivera, how does that description

coincide with the description given in the judgment of the Court against the same Judge Paredes in the year 1841, a copy of which judgment is on our Exhibit (e), part of "A-1"?

A. Exactly the same description.

Q. The judgment recorded in our Exhibit (e), of "A-1," was rendered in what year?

A. In 1841.

Q. And in what year was the sale made by the Noriega heirs to Mr. Rivera?

A. In 1854.

Q. Who was the party who sold this land to Noriega?

A. Maria Josefa Miro.

Q. Was Maria Josefa Miro, according to the judgment so often referred to as our Exhibit "A-1," the successful plaintiff against Jose Garcia de Paredes in the law suit of 1841?

A. She was.

Q. Handing the witness Exhibit "A-1," page
234 (e), being purported ancient copy of the judgment in the law suit between Maria Josefa Miro and Judge Paredes in the year 1841, I will ask you, Doctor, what is the time,—how many years ago,—did you first see that paper?

A. I may have seen these papers many years ago, but I really read this paper about 1905 or so, when I came to Panama to spend one of my vacations here while I was studying in the States; all are my father's papers.

Q. Where did you find that paper in 1905?

A. It was given to me by my father with a lot of other papers.

Q. Showing you the entire defendant's Exhibit "A-1," I will ask you if that page (e) formed any part of that Exhibit when you first saw it?

A. Yes, sir; and there were many other deeds with these papers, too; this particular judgment was inside this cover.

Q. And what does it say on the outside of that cover?

A. It says "documents of the farm Mata Redonda belonging to Nasario Quintero, January 7, 1870."

Q. Nasario Quintero was the man who bought Mata Redonda from Mrs. Collet?

A. Yes, sir.

Q. And Mrs. Collet had bought it from Captain Rivera?

A. From Jose del Carmen Rivera.

Q. And Rivera bought from the heirs of Noriega, in Exhibit "J"?

A. Yes, sir.

Q. Do you know how many years your father had these documents in his possession?

Q. What year?

A. Ever since he bought the land.

A. 1891,—thirty years ago.

Q. What month?

A. He bought it on February 6th.

Q. Then these documents have been in your father's possession more than thirty years?

A. Yes, sir.

Q. Was this judgment contained in this document one of the papers by which your father claimed his boundaries and right to Mata Redonda, as it has always been claimed and asserted by your father?

A. Yes, sir; not only he, but by myself; we always thought that is the hinge of the whole title.

Q. You yourself, Doctor, have personally searched for the original?

A. I have for over a year.

Q. And the original does not exist in the place where it should?

A. No, sir; as far as I have been able to
235 find, and I have paid people to look for it. Among the people employed there is a relative of Mr. Diaz' to whom I offered to pay one hundred dollars for it.

Q. The Notary certified that he finds no record of that suit except the depositions taken by Judge Paredes?

A. Yes, sir; and the cover.

The Court:

What was the paper introduced by the other side?

Mr. MacIntyre:

Referring you to plaintiffs' Exhibit "A," starting at page 23 of the transcript of record, I will ask you to read that part of the exhibit which is a complaint by Mrs. Clara del Carmen Gongora de Caceres against Mrs. Juana Baravena?

A. (Reading):

"Mr. Judge Especial for waste and unappropriated lands: Clara del Carmen Gongora de Caceres, Executrix of my father Pablo Gongora de Caceres, owner of the lands of the estate Caceres and all others thereto adjoining, exempted (appropriated or apportioned to him by reason of title in due form thereof appertaining, which I ask should be returned to me for keeping) before you appear and say: that finding myself, through my predecessors paternal, in possession for all time of the lands which run from the source of the Rio Hondo, on this side of said river to a brook which is in proximity to Pan de Azucar, and from said brook along a

straight line to Matasnillo, and from there a straight line until opposite the headwaters of a brook which discharges itself at the Old City, and from the source of said small brook following a straight line up to Sonsonate Hill and that of Gallinasos and from there to Mocambo, from whence the line runs down to the source of the Rio Hondo, lying inside the brook called Casteneda; and that the lady Mrs. Juana Baravena (who has nor ever did have title to lands) has been disturbing my peaceful possession of the lands which by proper title I possess and own, usurping as she does the right over those portions known as Cerro de Sonsonate and Gallinasos by collecting payments from those persons who inhabit said localities; and seeing that such action violates my rights and work injury to me, in view of the just right which I possess and which is resisted I ask and petition you that, having presented to you with my proper title (which I ask should be returned to me for keeping): that she be called to produce here, and further that in the act of notification that she produce her title to the said lands, should she fail to do so, having none as she really does not have, nor ever did have, she should be notified to return me the rentals collected arbitrarily from Mr. Jose Rosario Diez, from Marcos Tilano, from the creoles called respectively Atanacio and Baltazar but whose surnames I do not know, as also those from Juan Bautista Diaz and Joaquin Sotillo with the servants of Maria de la Trinidad Franco who are situated in the Gallinasos Hill, notifying her at the same time that she should abstain from making any further collections in one form or another, and that the said Jose del Rosario Diez, Marcos Tilano, the creole Anastacio and also Baltazar, and the rest of persons before mentioned, should not pay her anything of whatsoever kind, which in justice I ask, swearing on oath

in due form, as I really do, that I do not proceed in my request, with malice.

(Sgd.) CLARA DEL CARMEN GONGORA DE CACERES.

Having been presented the title, let it be given to the opposite party.

(There is a signature.)

It was provided and signed (this decree) by Joaquin Carabajo, Esquire, Attorney of the Royal Council, Lieutenant-Governor and Auditor-General of War Agent of these territories and Special Judge for the granting, taxation, sale and apportionment of lands of this Kingdom, Panama, 12th May, 1790.

(Sgd.) CIRIACO HIPOLITO CORREOSO.

In Panama, on the same day and date (same month and year) I informed Luis de la Barrera y Negreiros of this provision.—Correoso.

This affidavit agrees with the title, docu-
236 ments, decrees, approval by the Crown-Attorney, orders, and other manuscripts and proceedings which I have made comparison and of which mention has been made; and of the petition of the lady, Mrs. Clara del Carmen Gongora de Caceres, to w[illegible]n I have returned the originals, I append my sign and signature, in Panama, on this 22nd day of May, 1828.

JOSE DEL CARMEN CORREOSO,
Notary or Secretary of Government and War."

Q. This Luis de la Barrera y Negreyros, does his name appear in any of the deeds which are now in the record?

A. Yes, sir; Exhibit "H," page 78, of transcript of record, No. 3382, of the Circuit Court of Appeals.

Q. In what manner does Mr. Negreyros' name appear in that deed?

A. It is mentioned by his nephew, who sells as his testamentary executor.

Q. The nephew of this man, Negreyros, as executor, sold the land of Mata Redonda?

A. Yes, sir.

Q. To whom?

A. Maria Eusebia Jimenex de Miro.

Q. And that is mentioned in that deed,—Exhibit "H"?

A. Yes, sir.

Judge Fairman:

What is the description contained in that deed?

Mr. MacIntyre:

None, I think.

Witness:

In the ancient deeds the description was not given, only the old grant containing it was given with that following. You will find Mr. Diaz has exactly the same omission.

Judge Fairman:

The particular deed you are testifying to has no description except by the name?

A. By the name Mata Redonda.

Mr. MacIntyre::

You have just read from plaintiffs' Exhibit "A," the complaint filed by Mrs. Clara del Carmen Gongora de Caceres against the lady who was holding the land of Mata Redonda in 1790: is that complaint and that ac-

tion in any manner referred to in the judgment between Maria Josefa Miro and Judge Paredes?

A. Yes, sir; the suit is mentioned and a portion of the judgment handed down at that time is inserted in the new judgment.

Q. Let me get you straight, Doctor. In defendant's Exhibit "A-1," page (e), purported to be a copy of a judgment in the suit between Maria Josefa Miro and Jose Maria Garcia de Paredes, you state that there is mentioned in said judgment the suit referred to as being commenced by Mrs. Clara del Carmen Gongora de Caceres in 1790?

A. Yes, sir.

Q. Is the judgment in the suit which Mrs. Caceres started referred to?

A. I said a portion of it is copied right in
237 the new judgment,—a portion of the suit started in 1790 is copied in the judgment handed down in 1841.

Q. Mr. Patterson, what is your profession, in what branch of science have you specialized?

A. On chemistry; I have also studied law.

Q. What degrees did you obtain in chemistry, if any?

A. B. of C. S., and Chemical Engineer; after that, M. S. in Chemistry, and Doctor of Philosophy, with Chemistry as major subject.

Q. Have you ever exercised your profession of chemist?

A. Yes, sir; in the States; I have taught chemistry in the University of Notre Dame; and am now teaching in the Panama Institute and the Normal School.

Q. What substance is ordinary writing ink made of?

A. Tannic acid and a salt of iron.

Q. Does writing ink made of tannic acid and salt of iron undergo any changes?

A. Yes, sir; aided by the oxygen in the air it unites with portions of the cellulose in the paper and loses its color, and leaves oxide of iron, which has a somewhat reddish color.

Q. I would ask you what is the color of the ink on the document, Exhibit "A-1," page (e)?

A. (Examining same) That color is the particular reddish color of oxide of iron.

Q. Do you notice the results of any chemical reaction of the ink and paper?

A. That is the result,—leaving the oxide of iron.

Q. Can you state about how many years are necessary for that change to take effect?

A. A great many years; at any event, that could not happen in less than twenty-five years.

Q. As a chemist, Doctor, I will ask you to examine the paper which you hold in your hand, and especially the ink marks on that paper, and ask you in your opinion, what is the age of that instrument, approximately?

Judge Fairman:

Are there no dates upon the instrument?

A. There is a date.

Mr. MacIntyre:

But, I am asking from appearance?

A. I should say this instrument is at least seventy or eighty years old.

Q. Now, Doctor, does the paper itself bear any earmarks of age?

A. The paper is full of holes, and turned yellow by time, and shows that it is very old, the paper is crumbling in some parts, and some pieces have come out of it.

Q. I will ask you if that paper bears any date?

A. This paper bears the date of June 17, 1841.

Q. I will ask you if that paper bears any
238 final signature?

A. It has a final signature, and reads "Gomez."

Q. I will ask you if anyone by the name of Gomez was interested in the law suit to which that paper purports to allude?

A. Yes, sir,—Mrs. Maria Josefa Miro de Gomez, she was married, and the widow of Gregorio Gomez, Jr., and had several children.

Q. Then Gomez was the family name of one of the parties to that law suit?

A. Yes, sir.

Q. And of the successful party, according to that judgment?

A. Yes, sir.

Q. I will offer in evidence as an ancient document, and under the ancient document rule, defendant's Exhibit "A-1," page (e), concerning which the witness has now testified. (Handing document in counsel for plaintiffs.)

The Court:

Any objections, Judge?

Mr. MacIntyre:

While the attorney is studying the translation, I wish to submit the document itself for inspection by the Court as to its bearing the ear-marks of age. (Hands same to the Court.)

Judge Fairman:

I will simply offer objection at this time on the ground: first, that the document itself is illegible and

I object to the translation submitted, and will ask the Court that the translation submitted be either compared or corrected by the official translator.

Mr. MacIntyre:
Which we are very willing to submit to.

Judge Fairman:
It is apparent that the particular document has been in the possession of the defendant for at least thirty years, and why it has not been brought out before, I do not know; its antiquity is the only thing that commands any respect,—or its promised antiquity,—and for those grounds, if no other, the Court should be very careful in my opinion and scrutinize the document.

The Court:
I will admit this in evidence with the condition that if there is any evidence to my mind that the translation is not correct, the translation shall be corrected in accordance with my findings as to the translation. The proof of this ancient document as basis of its admission in evidence is as competent and sufficient as any evidence can be made as to a document of this character, and if it is not admissible it would be very difficult for a Court to be convinced what evidence would be sufficient to introduction.

Mr. MacIntyre:
I will state, before making this offer, that I will prove by the witness on the stand that some four or
239 five years ago the document was in a little better state of preservation and that the present witness, Dr. Patterson, by the aid of a microscope, made a very careful transcript of that document and

reduced it to print, and merely for the purpose of assisting the interpreter in reading the illegible words, I wish to offer in evidence, with its proper authentication, a copy of that document, which was introduced and admitted in evidence before the Supreme Court of Panama, that is a compared copy with its original.

Judge Fairman:
I think that is a good idea.

The Court:
It may be admitted.

Judge Fairman:
It is practically a copy of the Exhibit itself.

Mr. MacIntyre:
I will then introduce this as part of Exhibit "A-1," page (e).

Judge Fairman:
As a compared copy of the original document.

Mr. MacIntyre:
I will call it "A-1" (e-1).

Judge Fairman:
There is no objection to that.

Mr. MacIntyre:
It is certified by the Clerk of the Supreme Court, and his signature attested by the Judge, and his signature attested by the Secretary of Foreign Relations of Panama, and the Secretary's signature by Mr. McIlvaine.

The Court:
It may be admitted in evidence.

Mr. MacIntyre:
At this stage we have present in Court, Florencia Noriega de Hincapie, nearly ninety years of age, very old and feeble, and suffering with heart trouble, and we would ask to have her testimony taken now

The Court::
Let the record show that the witness is permitted to leave the stand for the purpose of calling on an aged witness and cannot remain in Court any length of time.

Judge Fairman:
No objection on the part of the plaintiff.

MRS. FLORENCIA NORIEGA DE HINCAPIE, is now called by the defendant, and having been duly sworn, testified as follows:

Direct Examination. (Through the Official Interpreter, in Spanish.)

By Mr. MacIntyre:
Q. Kindly state your name?
A. Florencia Noriega de Hincapie; widow of Hincapie.
Q. Who was your father?
240 A. Jose Isidoro Noriega; a public secretary all his life.
Q. What is your age?
A. Eighty years of age.
Q. Where were you born?

A. In Panama.

Q. Do you know, or, did you ever know, the estate called Mata Redonda?

A. Certainly, it belonged to us; I remember it perfectly well.

Q. Did you ever live on that estate, Mrs. Hincapie?

A. Every summer my father and mother took us there to spend the season out there.

Q. Did your father have any buildings, or build any any buildings on that property?

A. Yes; there is a large house there where we lived.

Q. In what part of the plantation was that?

A. I cannot say exactly, the old place is there, and the deed refers to everything.

Q. Did your father ever build a brick factory, or tile factory, on that property?

A. Yes; he built one to make brick and tile; there is a good deal of land to work there.

Q. Do you remember the old chapel on that property?

A. Yes; we went to mass there every Sunday at that place.

Q. Was there a large rock anywhere near that chapel when you lived there?

A. I never saw it.

Q. Was there on that property when you lived there a place or spot, or particular locality known as "la mata redonda,"—the round bush?

A. Yes, there was.

Q. Was that anywhere near the tile oven that your father built?

A. It was; yes, it was near the road there.

Q. Was this Mata Redonda in your time anywhere near the Porto Bello Road or Trail?

A. That road went right on the right to Porto Bello,—the road to Porto Bello passed along the property.

Q. I think that is all I will ask this old lady. One question more: Did your father have any milk cows out there?

A. Yes, he had cows there, and all kinds of stock animals in the stone corral.

Q. That is all. Take the witness.

Cross Examination.

By Judge Fairman:

Q. Mrs. Hincapie, how near was your father's house to the old chapel?

A. It was right close by; the house was here
241 and the chapel there (indicating); we went to mass there.

Q. How long since you left the estate of Mata Redonda?

A. That is a long, long time ago; I was a child and my mother sold the property for almost nothing.

Q. Did you ever hear of a place called "Pena Hueca"?

A. No, I never heard of it; there was none out there then, that has been invented since.

Q. Did you ever hear of a place called Pena Hueca on the lands of Mata Redonda?

Mr. MacIntyre:

I am going to object; that word "pena hueca" never appeared until after the death of her father.

The Court:

He only wants to know if she ever heard of it.

Witness:

No one ever questioned that,—the Mata Redonda,—no one ever questioned that.

Judge Fairman:

How near to the old chapel was the place called Mata Redonda—the round bush, called "Mata Redonda"?

A. That is the name, Mata Redonda, but I do not remember where it was.

Q. How near to the house of your father did he build this brick oven?

A. I do not remember that exact; I was a very small child, and how can I remember after so many years?

Q. That is all.

(Witness leaves the Court room.)

I will state this lady is one of the minor children that appears in the record when that property was sold to Rivera, as Miss Florencia Noriega,—her name appears in the old deed. Her father bought the land in 1841.

GUILLERMO PATTERSON, JR., is now recalled for further examination, as follows:

Mr. MacIntyre:

Doctor, we interrupted your testimony to take the testimony of Mrs. Hincapie, the daughter of the Noriega who bought the lands from Mrs. Miro quite a number of years ago. Did you hear the witness testify as to a brick oven, or tile factory, built by her father on the grounds of Mata Redonda?

A. Yes, sir.

Q. Is that the brick oven that was pointed out to his Honor, the Judge, on the ocular inspection of
242 the lands as being near the house your father had on the land of Mata Redonda?

A. Yes, sir; it is near the spot called Mata Redonda, near the Porto Bello Road, and near my father's house.

Q. Was that brick oven ever pointed out to you by other descendants of Noriega?

A. It was, or rather I know by public repute that that brick oven was built by Noriega; and a lady, who is a grand-daughter of Mr. Isidoro Noriega, and a friend of my mother, also told me about that oven.

Q. Is there any physical evidence upon the ground of any trail running through the plantation of Mata Redonda to Porto Bello, either known as the new or old Porto Bello trail?

A. It is practically impossible to run a road through there; there is a road that goes to Loma Largo, and turns somewhat to the southwest to the Canal Zone; in order to go to Porto Bello you would have to go straight north or northwest.

Q. The old Porto Bello trail along which your father's fence was, was that ever considered one of the boundaries of Mata Redonda?

A. That was always considered the boundary between Lo de Caceres and Mata Redonda; and there are even public documents, and it is public fame which says it has been considered as such.

Q. Mr. Patterson, did your father ever pay taxes on all of the land between that fence along the Porto Bello trail to the River Cardenas, and over to the spot which you called Pena Hueca, or Mata Redonda, up to the limits of Mocambo?

A. He did, from the very time he bought the land until somewhere in the nineteen hundreds, he paid taxes to the Republic of Colombia; then he paid a few years to the Republic of Panama; and later for the portion within the Canal Zone, he paid to the Canal Zone authorities.

Q. Did Mr. Diaz, or any of the owners of Lo de Caceres, ever pay to the Canal Zone any taxes upon any of the lands of Mata Redonda?

A. No, sir.

Q. Handing the witness defendant's Exhibit "B-2," consisting of pages 1, 2, 3, 4, 5, and 6, I will ask you, Doctor, what is this?

A. These are notices and receipts from the Government of the Canal Zone, District of Ancon,—tax notices and receipts.

Q. To what land do they pertain to?

A. To the land known as Mata Redonda.

Judge Fairman:

We object to pages 2, 3, and 4, and 5, of defendant's Exhibit "B-2," for the reason that they do not state what real estate these taxes are paid upon; the notice indicated at page 1, as a notice of taxes upon the Estate of Mata Redonda,—to that notice we have no objection.

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The Court:

He has testified those refer to the land in question.

Judge Fairman:

We still object on the ground that the tax receipt itself is the best evidence, and it does not state what real estate is involved.

Mr. MacIntyre:

It states "land in the Sabanas."

The Court:

Objection overruled.

Judge Fairman:
Exception.

Mr. MacIntyre: (Continuing):
What real estate in the Canal Zone did your father ever own?

A. The only real estate is Mata Redonda.

Q. And the estate of Mata Redonda is the only estate upon which ever any tax notices were sent to him?

A. Yes, sir.

Q. For how many years did you say your father has been paying taxes on the lands of Mata Redonda?

A. From 1891, to the last receipt here in this Exhibit "B-2," which is in the year 1911; he may have paid more, but we do not have the receipts.

Q. In what part of Panama are the lands of Mata Redonda?

A. Part in the Canal Zone, and the other part is in what is called the Sabanas.

Q. Did Las Sabanas at any time belong to the Canal Zone?

A. Yes, until an agreement was made around the year 1911, or so,—I do not remember exactly,—but there is an agreement by which the Canal Zone made a reservation line leaving out most of the Sabanas.

Q. That part of the Sabanas were returned to the Republic of Panama?

A. Yes, sir.

Q. And this Exhibit "B-2," I take it, and you have so testified, are receipts and notices for taxes paid by your father on the lands now in dispute?

A. Yes, sir; in Las Sabanas, Estate of Mata Redonda.

Q. I offer it in evidence.

The Court:

It may be admitted.

Mr. MacIntyre:

The old lady, Mrs. Hincapie, who testified when asked about a place called Pena Hueca, said she never heard of that; when and in what manner does the word "Pena Hueca" first appear in any evidence of title, or document, referring to the estate of Mata Redonda, or Lo de Caceres?

A. It does not appear at all in the estates
244 of Lo de Caceres,—there is no deed mentioning "Pena Hueca"; but the word "Mata Redonda" appears in the deeds of Mata Redonda down to the year 1859; along in the year 1859, in order to distinguish that round bush from others, perhaps with the idea of making it so that nobody could confuse the location, Mr. Jose del Carmen Rivera for the first time mentioned "Pena Hueca" as the point or place within the spot called Mata Redonda.

Judge Fairman:

That deed was for the estate of Mata Redonda?

A. Yes, sir.

Q. And not to any deed referring to Lo de Caceres?

A. No; they never mentioned the word "Pena Hueca" in the deed of Lo de Caceres.

Mr. MacIntyre: (Continuing):

When this Mr. Rivera described the starting point of the line as Mata Redonda or Pena Hueca,—what time was that in reference to the time when the last witness, Mrs. Hincapie, lived on the land,—before or after?

A. It was after; she was one of the vendors to Rivera in 1854, and in 1859 Rivera mentioned Pena Hueca within Mata Redonda.

Q. Does your father still hold and claim according to the limits set forth in that old law suit, which is introduced as defendant's Exhibit "A-1," page (e), and the deed of the Noriega family to Rivera, which also states the limits and boundaries in defendant's Exhibit "J"; and if he does not claim according to those, explain to the Court the difference in the lines?

A. The limits were changed by Mr. Rivera from those by which he bought; he divided the estate of Mata Redonda into two portions, sold one, and remained on the other; I do not know that that has ever been sold to anybody.

Q. Will you explain from plaintiffs' Exhibit "2," the lines of Mata Redonda as sold by the Noriega family to Rivera, and as described in the old judgment of 1841 in our Exhibit "A-1" (e)?

A. The boundary lines given in the Noriega sale states "from the spot called Mata Redonda to the limits of the River Cardenas"; the Cardenas River starts away up north, crosses the Canal Zone line and empties here (indicating on Exhibit "2"); it says from the Mata Redonda to the limits of the Cardenas River, including its headwaters and springs. Then it says, "on the bottom, the same river down stream to the junction of the Palangana Creek," that is this part here (indicating on Exhibit "2"). Then up the Palangana Creek to a creek with a rocky bed. Then it says "on the upper side,
245 from the hill called Gallinazos to the furthest boundaries of Mocambo"; the "furthest boundaries" I take it as the northern boundary, which coincides with the deeds made out later. Gallinazos Hill is near Sonsonate Hill; Gallinazos Hill is now called Cerro la Bandera. The deed of 1849 says a straight line is drawn from Gallinazos Hill to Mocam-

bo, so that this is the line there (indicating). This Gallinazos Hill is southeast of Sonsonate.

Q. I will ask that the witness indicate some mark on the spot Gallinazos Hill?

A. It is already marked,—with a "G."

Q. The place you have marked "G" on Exhibit "2"?

A. That is Gallinazos Hill.

Q. I will ask you to mark on the map with the letter "S" Sonsonate Hill?

A. That is already named on the map.

Q. Then, I understand your testimony, the original boundaries of Mata Redonda ran from the spot on the map marked Pena Hueca to the hill Gallinazos; from there to the furthest limits of Mocambo; then from the source of the Cardenas River until the place where it empties into the Palangana; thn up the Palangana to the Platanar; then up the Platanar to its headwaters;—leaving the polygon unenclosed, the short strip between the Platanar and the Mata Redonda?

A. Yes, sir; it leaves that unenclosed; it also steps from the Mata Redonda to Gallinazos; and I have heard some witnesses here say that the headwaters of the Platanar were near the Mata Redonda, and following that reasoning the Gallinazos Hill and Sonsonate must be also near the Mata Redonda,—if they are right.

Q. When Mr. Rivera sold to Mrs. Collet, as per defendant's Exhibit "E," will you indicate upon that map and mention the points so that the stenographer can get it properly in the record,—the boundary shown by the Rivera deed?

A. Rivera gave a line from the Mata Redonda to Algarrobo Hill,—instead of Gallinazos Hill,—and from Algarrobo Hill to Vidrio Hill to Gordo Hill, and to the headwaters of the Cardenas; down that river to the place where the Palangana Creek meets the Cardenas River;

then up the Palangana Creek to the place where the Platanar Creek meets it; and up the Platanar to its headwaters; and then a straight line back to the Mata Redonda.

Q. Did Mr. Rivera close all of the sides?

A. I do not remember if he drew the line from the headwater of the Platanar to the Mata Redonda, but it was already closed in previous deeds.

Q. Then, that, as I understand, is the first
246 time the word "Pena Hueca" was used as descriptive of the Mata Redonda?

A. That is the first time it was used.

Q. When did you say you were first on that property?

A. In 1888.

Q. Describe to the Court the appearance of the place you call Mata Redonda and its adjacent territory at that time?

A. At that time, and still later on up to about 1899, all around there was natural grass plains, and the spot called Mata Redonda was a round coppice, practically round, with big trees on it,—that was called Mata Redonda. There were some other small bushes around there, but the largest one was less than its size. The fence came pretty near the center of that spot called Mata Redonda.

Q. Even in the Rivera deed to Mrs. Collet the portion of the Mata Redonda estate described in 1695 Crown Grant are described in the judgment of 1841 between Mrs. Miro and Judge Paredes, and are described in the Noriega deed to Rivera,—all of that land was not sold by Captain Rivers to your predecessors in interest?

A. No; he remained on that portion of the land describing a line from the Mata Redonda to Gallinazos Hill, from there in the direction of the furthest boun-

daries of Mocambo, up to the meeting of the hill Algarrobo; then down again to the spot called Mata Redonda.

Q. As to that portion of the land you have no claim?

A. No claim; I still believe it belongs to the heirs of Mr. Rivera; in all of the time I have searched the records I have not seen any deed transferring that land to anybody else from Rivera.

Q. Mr. Patterson, in the judgment of 1841, being our Exhibit "A-1" (e), the establishments of Algarrobo, Sonsonate, and Gallinazos are mentioned; will you show the Court where they are?

A. (Indicating on Exhibit "2") The establishment of Sonsonate is around Sonsonate Hill; Algarrobo around Algarrobo Hill, and Gallinazos around Gallinazos Hill; they are called establishments because some people established themselves there and lived there, and cut down trees, and made an agricultural establishment.

Q. The deed by which Miro sold the land to Judge Paredes called from where to where on this map (indicating Exhibit "2")?

A. From Mocambo, which means, of course, the region and not the hill as shown here, to the Mata Redonda, which is on the Porto Bello Road in front of my my father's house.

Q. About how much of your estate of Mata
247 Redonda was included in that sale?

A. More than half.

Q. Was that the sale which was set aside by the judgment of 1841?

A. Exactly the same.

Q. Was that judgment of 1841 ever appealed from?

A. The judgment itself says it was not.

Q. Is there a certificate attached to that copy of that judgment to the effect that it was not appealed from?

A. Yes, sir.

Q. Is there any record of any reversal of that judgment?

A. Not that I know of, and I have looked through those archives many a day.

Q. Do you understand it that the parties to that judgment were Mr. Paredes under whom Mr. Diaz' claims, and Mrs. Miro under whom you claim?

A. Yes, sir.

Q. They were the two parties to that suit,—Mr. Paredes and Mrs. Miro?

A. Yes, sir.

Q. I believe that is all. (To counsel for plaintiffs): You may take the witness.

Cross Examination.

By Judge Fairman:

Q. When and where were you born?

A. In the city of Panama, February 13, 1882.

Q. You are at present a little over thirty-nine years of age?

A. Yes, sir.

Q. Where did you first attend school?

A. In the city of Panama.

Q. For how many years did you attend school there?

A. I was here up to when I was about fifteen or sixteen years old; then I went to Curazao, an island near Venezuela.

Q. I will ask you to give the approximate years?

A. Approximately 1898 or 1899 I went to Curazao, and I was there about a year, perhaps a little more; after that I went to Jamaica, and I was there a year, or a little more; and in the year 1901 I went to the States, and I remained in the States studying and teaching

up to 1911, coming down here during my vacation periods.

Q. Come down here every year?

A. I did not come down here for a couple
248 years at first, but later on, every year.

Q. So that from the period of 1898 to 1911, with the exception of the vacations you spent on the Isthmus, you spent your entire time away in attendance at school and teaching?

A. Yes; but I had three months' vacation during my college studies from May to October,—a little more than three months.

Q. You first went upon this land, you state, in 1888?

A. Yes, sir.

Q. You were then six years of age?

A. I became seven years of age on the land.

Q. What was your father doing upon the lands at that time?

A. My father was taking care of the land, and taking care of the dairy business of Mr. Duque, that he had there, with Mr. Zayas before. Duque had some trouble with Zayas, and my father went there to substitute in the business; my father went there around July, 1888, —it may be a little later,—I do not remember the exact month. Then my father stayed there taking care of the business until Mr. Duque sold one half to Mr. Espinosa; then Mr. Espinosa made arrangements with my father to transfer the dairy business to a place called "La Union", near Corozal, and my father came down and was there until he arranged to buy the place, and he finally went back in 1891 to the estate of Mata Redonda.

Q. Prior to the year 1888 in what business was your father engaged?

A. Prior to that he was working with the French Canal; about 1887 we went to Guatamala, and then the Company gave out, and he had to return; after that he wanted to do something and he engaged himself with Mr. Duque.

Q. I believe you said it was about 1905 that your father first placed all these deeds and documents and asked you to run down all the properties?

A. Yes, sir; about that time, but it may have been a year more or less.

Q. You engaged in running down these documents from that time until this date?

A. No, I read them right through then and there,—every deed and document my father had.

Q. Did he deliver to you all the documents you introduced in evidence at this time?

A. Most of them.

Q. Since the Panama trial of this case in 1818 you have made a special and exhausted study of the transcript of the record?

A. Well, yes,—I have read it through.

Q. Have you no copy in your possession which contains copious notes and marks?

A. Yes, sir.

Q. Have you read it through more than

249 once?

A. No, I do not believe I read it more than once; in fact, even now I have not read through all the deeds in the record, but I have read them more than once but not in this particular record.

Q. So that if I call your attention to any particular deed here without reference to the book you could not tell me much about it?

A. I may; I think I can tell a whole lot about it.

Q. I refer here to defendant's Exhibit "M", where Quintero sold Mata Redonda?

A. That transfer was made in the year 1871 to Mr. Arauz.

Q. Then you have made a special study of that deed?

A. Yes, I read all the deeds more than once, all the titles, and all Mr. Diaz' title and deeds, too.

Q. You are thoroughly acquainted with their contents?

A. Oh, yes, sir.

Q. Now, for a period of ten years, from 1888 to 1898, you lived upon the lands?

A. I did, and after that also for many intermittent periods at the time I used to come here.

Q. But for that period of time you were constantly upon the land?

A. I may not have been constantly, but practically so.

Q. Up until you were sixteen from the time you were six you lived on the land?

A. Yes, sir.

Q. And what did you do?

A. I went around there riding horse-back, and playing around like any other boy would; helping the cow boys get the cows; and there was a period that I came to school in Panama, and I used to return there.

Q. Your father is the real defendant in this action?

A. Yes, sir.

Q. Now, at the time you first came upon this land, were you acquainted with the boundaries?

A. Well, I knew in a general way what the land was at that time I was rather small but I knew from the Porto Bello road back belonged to the owner of the estate.

Q. Do you know whether Mr. Duque and Mr. Espinosa were ever on that land?

A. I believe they were perhaps a few times; I do not remember seeing them there much; I remember seeing Mr. Duque there once, but I do not remember seeing Mr. Espinosa there.

Q. Where did you live when you first went upon that land?

A. Near the Chapel in an old house that was already there.

Q. That is when your father was employed
250 by Mr. Duque?

A. Yes, sir.

Q. How long did you live there?

A. Probably two years, I think.

Q. Who built the house near the Chapel which you lived in?

A. I could not tell positively, but from public repute I think Mr. Arauz built that house.

Q. In what direction from the Chapel was that house located?

A. To the northeast of the Chapel.

Q. So you moved from there in 1890?

A. We moved from there to "La Union" away from the land entirely, and then came back in 1891.

Q. Then where did you live?

A. We went up to the same house for some two or three months, and then my father immediately started building a house; at the end of two or three months that house was almost finished, and without being completed, we moved in.

Q. That is after he purchased the property?

A. Yes, sir; that is after he purchased the property.

Q. That house was the place at the right of this trail over which we went upon the inspection?

A. Yes, sir; to the right,—marked "Old Patterson House".

Q. About how far is that, from the house to the Chapel?

A. About a mile and a half.

Q. How long did you live in that house?

A. About two years, and then my father moved that house, or rather built another house right near the old house, standing on the property marked as "Zayas' House". The reason he had to move there was that he had to get up early in the morning to see the cows milked, and sometimes it was rainy and inconvenient for him, so he changed the house.

Q. Then you built that first house sometime in the latter part of 1891?

A. My father built it I should say about the exact month,—it must have been sometime between August and September,—perhaps July and December.

Q. Then two years later along between August and December of 1893 your father built this other house?

A. Yes, but I could not say the exact month; it was less than two years later.

Q. It may have been 1894?

A. No, it was not in 1894 I am sure, it was in 1893.

Q. Now, at the time your father built the first house did you have any dispute or objections from the parties who claimed to own the estate of Lo de Caceres?

A. Not at all,—my father had just arranged with the Lo de Caceres people about those boundaries.

Q. Who arranged that?

251 A. Ramon Garcia de Paredes, who was attorney-in-fact for Mrs. Catalina Lewis de Garcia de Paredes.

Q. Did you know if he was attorney-in-fact of your own knowledge?

A. He so testified under oath in this Court.

Q. That is all you know about it? No document was ever exhibited to you giving him such authority?

A. No, I have not seen any document, but I think his testimony under oath is enough; I am satisfied he was under those conditions.

Q. What was he doing out on that land?

A. Who? Mr. Paredes?

Q. Yes.

A. He lived there part of the time.

Q. Where did he live?

A. He lived about some three miles from my father's house, to the east of my father's house, at a place called Lo de Caceres, and somewhat south of Mr. Diaz' own house now,—just about half a block south of Mr. Diaz' own house.

Q. Were any other of the Paredes family living there at that time?

A. Yes, sir; the whole family lived there during the Dry Season.

Q. Know whether or not they were living there before your father went out there?

A. Well, by repute I know because that house was very old, and we had very friendly relations with all the Paredes people, and we knew then that they had been living there and going to that same house for many years.

Q. And your father made an agreement with Mr. Ramon Paredes to settle some dispute or boundary line between the properties?

A. Not to settle a dispute; my father wanted to find exactly where the boundary was, and Mr. Paredes and he agreed to take as a physical line the road from the

spot called Mata Redonda to the Algarrobo, that is, the old Porto Bello road.

Q. What form did that agreement take?

A. That is only a verbal gentleman's agreement; but we have shown evidence, and there has evidence been already introduced in that record showing Mr. Paredes had agreed to it.

Q. Agreed to the line to Algarrobo?

A. Yes, and he agreed to pay half the expense of making some stone monuments and putting the names on.

Q. Did he agree to the line to the hill of Algarrobo?

A. Sure.

Q. Did he do that by means of any writing?

A. No, I said it was a verbal gentleman's agreement.

Q. Was it ever carried into effect?

A. Yes, sir; it was practically carried into effect all the time.

252 Q. I exhibit to you here a letter dated Panama, August 3rd, 1891, contained at page 182 of the transcript of the record of the Circuit Court of Appeals, and ask you to state whether or not that is the letter you refer to?

A. Yes, sir; that is the letter I refer to; and it says: (reading):

"Panama, 3rd of August, 1891.

Mr. Guillermo Patterson,
Mata Redonda.

Dear Guillermo:

I have received your note. I regretted not having been able to go there yesterday as I offered you to do, but the steamer which should have been dispatched on Saturday was not dispatched until yesterday at noon.

I have no objection to having the rocks made that you desire, nor that you put the inscription on the Pena Hueca. As to the first I believe that they can be placed on one side "Mata Redonda" and on the other side "Lo de Caceres"; the cost of the last inscription I will pay.

I do not know if it will be possible for me to go there one week day, one working day, but in case of being able to do so, I will advise you in due time.

Hope you are in good health.

Your affectionate friend and
obedient servant,
R. G. de PAREDES LEWIS."

Q. Now, in this letter, he evidently makes a suggestion that it be placed on one side "Mata Redonda", and on the other side "Lo de Caceres"?

A. Yes.

Q. Was that done?

A. The monuments were made but never placed in position through negligence.

Q. This refers to putting an inscription on the Pena Hueca, was that ever done?

A. The inscription was done in the year 1891, and there is evidence in the record here to that fact.

Q. But you never put on any side of that place the words "Lo de Caceres"?

A. It was not called for, if you will read the letter again you will see.

Q. "As to the first I believe that there can be placed on one side 'Mata Redonda' and on the other side 'Lo de Caceres'".

A. Yes, sir, that is the inscription on the monuments.

Q. That was never done?

A. It was done, but the monuments were not placed.

Q. Where were you going to place them?

A. One was to be placed at the Vidrio Hill and one at Algarrobo Hill.

Q. And he refers to putting the inscription on the Pena Hueca?

A. He refers to the hollow rock, or apparently hollow rock which is near the Mata Redonda where
253 my father claimed it to be; when he refers to the Mata Redonda he referred to the one my father always claimed it to be.

Q. That one you showed the Court last Tuesday?

A. Yes, sir.

Q. And at that time this inscription was placed on there?

A. Yes, sir; exactly.

Q. Then the inscription placed on there "Mata Redonda or Pena Hueca" was placed there by your father?

A. Yes.

Q. Pursuant to the letter of Mr. Paredes of August 3, 1891?

A. Exactly.

Q. Did you ever show the inscription to Mr. Paredes after you put it there?

A. Mr. Paredes was on the land many times, and I have no doubt he saw that inscription many times.

Q. What was the condition of the ground there at that time?

A. It was a plain, devoid of large trees, except a few clumps or bushes, and the Mata Redonda was the largest of all of them.

Q. And those particular rocks were in the center?

A. In the Mata Redonda.

Q. But practically covered over so that you could not see, you had to go in there to see them?

A. Yes, until 1899 when Mr. Aleman threw a fence practically through the center of the clump of bushes, and then during the Dry Season you can easily see those rocks from the road.

Q. You were in charge of the property, or at least, with your father in 1913?

A. Yes, during the Dry Season.

Q. What year did you leave that property?

A. That same year, 1913; I was there a month and a half in 1913 and then came back to Panama, and we left a man there taking care of it, in fact, he was there for some time.

Q. Did you accompany Mr. Malsbury at any time when the survey was made in 1913?

A. No, sir.

Q. Did you exhibit to Major Malsbury any deeds or other records indicating your boundaries?

A. No, sir; I did not know Major Malsbury at that time.

Q. Did your father do such thing?

A. He did not know him either; he did not do it.

Q. Who was this young man who accompanied him survey named Patterson?

A. I do not know of any Patterson who accompanied him, I think I heard Major Malsbury say after
254 the spot Mata Redonda was already fixed by his surveying party he inquired from all the neighborhood, and was satisfied it was there, and also inquired from Juan Francho Patterson if that was the right place, and this Mr. Pacho Patterson told him it was; he may have gone with him, but not that Mr. Patterson accompanied him.

Q. As I understand you, neither yourself or your father ever saw or knew Major Malsbury prior to the year 1913?

A. No, not even in the year 1913.

Q. How long after 1913 did you first come to know Major Malsbury?

A. I came to know him because I knew a map had been made of the Mata Redonda, and I tried to get a copy of it.

Q. Did you get it?

A. Yes, I got it.

Q. Is that the same map which Major Malsbury introduced here?

A. Practically the same map, only this has some additional data ordered by the Court, and some lines placed here at the instance of Mr. Diaz.

Q. Did you ever suggest any lines yourself?

A. I never did.

Q. You had a dairy on that property until the year 1899?

A. My father had it.

Q. What did you do after that year?

A. In the year 1899 there was a Revolution going on in this country, the soldiers came in the house, got all the vegetables, ate the cattle, and took the horses; and only a few cows were left, which my father sold out; then he came to the city of Panama to work for Mr. Espinosa; and he left a man by the name of Jose Pablo Medrano on the place, who had been with him since the year 1888.

Q. Is that the young man who was with us the other day?

A. That is the "young man",—he is an old man now.

Q. What business, if any, did the Paredes family engage in out there?

A. Before the War?

Q. During the time you have knowledge of the place.

A. I could not tell what business they engaged in.

Q. About the year 1892, or somewhere in through there, didn't your father and some member of the Paredes family re-open negotiations about the boundary lines in there?

A. No, sir; that was all fixed in 1891 and never mentioned again until 1899 when Mr. Aleman,—not Paredes,—introduced that fence through the Mata Redonda.

Q. What did you do in connection with that
255 fence?

A. My father had just left the place there and he did not do much about it; he spoke to Mr. Aleman several times and wrote him several letters, and Mr. Aleman agreed he would put his fence lower down, but he never did.

Q. All to the south of that fence is now known as the estate of "La Gloria", is it not?

A. To the west.

Q. To the west,—that is right. And the boundaries of the estate of La Gloria follow the trail which we followed in going to this crossing of the Rio Hondo? (Indicating on Exhibit "2").

A. No, sir; the old trail from the old crossing of the Rio Hondo, that is the boundary of La Gloria, along another of my father's fences shown on the map.

Q. Then you claim to own this land in here marked "La Gloria"?

A. No, that is not marked "La Gloria"; La Gloria is marked here. (indicating).

Q. Has that line ever been established, that you have indicated, from the headwaters of the Platanar?

A. It has been in deeds for years, and was placed on this map by the surveyors who made it.

Q. Is there any dispute now pending between you and Aleman as to the ownership of this land in between here? (Indicating).

A. They placed a petition before the Joint Land Commission; but, I might state, in 1850,—somewhere between '41 and '54,—Noriega built his brick oven there; Zayas built there around 1876; and my father built on there in 1893;—all in that portion of the land.

Q. I am still asking you is there any dispute between you and Mr. Aleman as to the ownership of this land, marked Headwaters of the Platanar, to the point marked Mata Redonda, and the line following what is known as the Chapel New Trail?

A. I understood at one time Mr. Aleman claimed that, but he made a statement before the Court in Panama that he has no claim to that land.—he made that statement under oath.

Q. Was there any award made for the land of La Gloria by the Joint Land Commission?

A. Yes, between the line running from the headwaters of the Platanar Creek and Mata Redonda and the so-called Reservation Line from monument F to E.

Q. But no award was made for this land in here? (Indicating).

A. Not that I know of; although he claimed
256 a portion of the award given my father,—that is before he made that statement in Panama.

Q. What award was given to your father

A. My father was given an award of something like thirty thousand dollars.

Q. For what?

A. For the lands within the Canal Zone described as follows: From the Mata Redonda north to a place between Monuments 86 and 87 of the Canal Zone boundary; following the Canal Zone boundary to Mounment

80; then down the River Cardenas to the place where the Palangana Creek joins it; and then up the Palangana to where it joins the Platanar; and from the headwaters of the Platanar to the starting point.

Q. You have been paid that award?

A. I have been paid part, and the other part is claimed by Mr. Diaz.

Q. How much have you been paid?

A. About seventeen thousand dollars.

Q. That leaves about sixteen thousand dollars still in dispute?

A. About fourteen thousand dollars we were paid.

Q. For what particular part of the property were you paid?

A. We were paid for the property outside Mr. Diaz' claim.

Q. Then you were paid for the property which lies outside the lines marked on here starting from the Old Chapel Ruins, called Mata Redonda or Pena Hueca according to the decision of the Court of 1918; thence to the headwaters of the Platanar; thence down stream to the junction of the Platanar with the Rio Platanar; and going from there to a point marked the Old Royal Crossing of the Rio Hondo; then following the Chapel New Trail to a point marked also Pena Hueca and Mata Redonda, at the crossing of the Canal Zone boundary line; thence in a straight line to a point about mid-way between Mounments 86 and 87 on the Canal Zone boundary line; thence to a point near the Canal Zone Monument 81 on the Canal Zone boundary line; and from there back to the place of beginning;—that is the particular land in dispute between Mr. Diaz and your father?

A. That is the place in dispute but the place marked as the headwaters of the Platanar Creek and the Mata

Redonda according to the decision of the Ancon Court has been appealed and remanded and are not the correct places, and therefore they are somewhat different from the description you—

Q. (Interrupting): But now, admitting they are not incorrect, is that the land presently in dis-
257 pute?

A. Yes, sir.

(Recess is now taken from 12:00 o'clock noon until 1:30 p. m., when the Court resumes the hearing of this cause.)

Judge Fairman:

(Continuing): Now, Mr. Patterson, as part of your main case you have submitted in evidence all parts of the former transcript of this case contained in the record No. 3382 of the United States Circuit Court of Appeals?

A. I understand there is some agreement between the lawyer for the plaintiffs and the lawyer for the defendant that all that former evidence is admitted unless objected to on the grounds of its incompetency.

Q. In your testimony yesterday, did you not refer constantly to deeds contained in that record as part of your case?

A. I was telling what the deeds were.

Q. Are you submitting as part of your principle case the deeds contained in this transcript of record?

A. Yes, sir.

Q. Referring to page 74 of this record, with special reference to Exhibit "G", have you the original or certified copy of that document in your possession?

A. It is right there. (Indicating the defendant's exhibits).

Q. Is the translation of this original document as set forth in this record a complete translation of all of this document?

A. I understand it is; unless there may be some certificate left out, which are in the copy you have now and were not translated in the original transcript.

Q. You recorded this title to Mata Redonda on February 22, 1915?

A. My father did exactly the same as the deed of Lo de Caceres contained in the Crown Grant of 1755 was recorded in 1899.

Q. The original document of which this purports to be a copy was filed with the Notary?

A. It was returned to us,—the copy was made by the Notary and the original returned to us.

Q. Have you the original in your possession?

A. I have it.

Q. I would like to see it?

A. It is kept by the Notary Public and kept in the archives, and according to the laws of Panama these copies are given by the Notary, and is so attested and certified.

Q. Then as I take it, you refuse to produce the original?

A. No, I have no objection at all to you seeing it; it is the same exactly as the copy here.

258 Mr. MacIntyre:
(Interrupting): Where is the original, Doctor?

A. I have it at home; I am saving that more for a curiosity than anything else; but I will bring it and show it to you.

Judge Fairman:

Was the deed itself ever registered?

A. It states in the transcript that it is registered in the archives of the Convent of Our Lady of Mercy,—where the archives were kept.

Q. Where is the Convent of Our Lady of Mercy?

A. I suppose it is out of existence now, but I understand some of these records have been burned in one of the many fires here in Panama.

Q. Where did you obtain this document?

A. It was obtained by my father from Mr. Arias many years ago among other papers.

Q. That was also in that bunch?

A. In that same envelope. (Indicating defendant's Exhibit "A-1")

Q. Who made the translation of this document at the time you introduced it in evidence in the former trial?

A. I do not remember, but I believe Mr. Sheibley made that translation.

Q. But the translation was made of this document and not of the original?

A. It is exactly the same. The translation of that judgment is not going to be made from the original but from the certified copy that has been admitted in evidence in order that Mr. Sheibley could get the translation. A comparison was made with the old document, the Notary read it, and wrote it out, and then he protocolized that copy.

Q. Did you assist him in reading it?

A. No, I did not; I gave him the deed and expected him in fact to keep the deed, but we would like to have it back for the sake of curiosity,—my father likes to 'hang on' to old papers, even that old Paredes letter he kept,—and the old paper was returned.

Q. This document had been in the possession of your father since 1891?

A. Yes, sir.

Q. And from 1891 until 1915 he never caused it to be registered?

A. We had no occasion for it, we had no land suits or anything; in 1912 or 1913 Mr. Diaz started his claim and we thought better register it, otherwise we would never have given it to the Notary.

Q. Now, referring to page 78 of the transcript of record, your Exhibit "H", which is evidently a conveyance by Doctor Pedro Jimenez, testamentary executor of the late Luis de la Barrera y Negreyros, to Maria Eusebia Jimenez, his sister, and legitimate wife of Pedro Miro,—have you the original of that?

A. That is in Notary's archives,— Notary
259 Number One.

Q. Have you a Notarial copy of that at the present time?

A. It is right there. (Indicating defendant's exhibits).

Mr. MacIntyre:

It was already filed in the first trial of this case in this Court.

Judge Fairman:

Who made the translation of that document as contained in this record?

A. I believe Mr. Sheibley,—I could not say positive; there were one or two made by the interpreter of the Foreign Affairs Office in Panama, and compared by Mr. Sheibley in open Court.

Q. You have not got the original translation of it here?

Mr. MacIntyre:

It was filed in this case in 1918 and it is part of the record in this case.

Judge Fairman:

Referring to Exhibit "I", being deed of April 26, 1841, by which Josefa Miro sells to Jose Isidero Noriega the lands called Mata Redonda,—have you the proper Notarial document in your possession?

A. Yes, sir; I have the Notarial copy,— it is here in Court.

Q. This was introduced in the record at the former trial of this case?

A. Yes, sir.

Q. I find on this document that you present here the certificate of the Secretary of Foreign Relations of Panama, dated the 21st of April, 1921?

A. Yes, sir, that was introduced with the certificate and admitted as such before, then as that certificate was detached somehow from the pile of deeds, then the Court ruled that they should have been re-certified, and the attorney for the defendant asked permission of the Court to take away those exhibits to have them re-certified, and some of them are already here in Court again; some are not ready yet. They were all correctly certified and admitted in 1918 when this suit was tried before.

Q. Is the translated document contained on pages 81 to 84, inclusive, of the record a correct translation of this original document in all its parts?

A. It was made by Mr. Sheibley, I believe, so I suppose it is correct.

Q. Is the particular translation appearing here cover all this document?

A. It cannot cover the new certificates, and probably not the registration certificate either, because most of them were left out in order to make this transcript of the record smaller. It was admitted as they were all certified and registered the last time of the trial.

Q. Referring to Exhibit "J", being apparently a deed from Julian Noriega to Jose del Carmen Rivera,—have you the original Notarial copy of that in your possession?

260

A. Which?—the Notarial, or the original?

Q. Both, or either.

A. The Notarial copy was introduced in evidence, and is in evidence in this trial.

Q. Was it introduced in the former trial?

A. Yes, and it is still in evidence.

Mr. MacIntyre:

It is still in Mr. McIlvaines office, at Balboa Heights, and will be here this afternoon.

Judge Fairman:

I will defer any cross-examination on that until it arrives.

Q. Referring to Exhibit "K", contained on pages 100 to 103, inclusive, of the record, which appears to be a conveyance from Jose del Carmen Rivera to Mr. Felipe Martetlo and his wife, Maria de las Nieves Collet, is this a Notarial copy of this document? (indicating).

A. It is.

Q. This copy was issued to you on the 6th of December 1917, was it?

A. I suppose so; I do not have the copy in my hand,—you have the copy.

Q. Now, is the translation set forth in this record a correct translation of this document?

A. Well, it was translated by Mr. Sheibley, so I suppose it is a correct translation.

Mr. MacIntyre:

I might state for your information that Exhibit "K" is in one place incorrectly translated.

Judge Fairman:

I find, Mr. Patterson, that in the translation of this document as it appears in the record there is no translation of the act of registration?

A. I believe most of those documents went in without introducing the translation of the registration because it was left out to make the record smaller.

Q. It also appears that this document bears date of 1895, and it was not registered at all. For the purpose of the record I will ask the official translator, Mr. Sheibley, to translate into the record this certificate annexed to Exhibit "K", which does not appear in the printed record.

Mr. Sheibley:

(Reading):

"Public Registrar's Office, the Estate of Mata Redonda to which this document refers, is recorded in the Public Registry, Section of Panama, Volume 9, Folio 130, No. 241, Entries 1 and 2, in the name of Guillermo Patterson and Guillermo Patterson, Jr. Fees, 25/100 Balboas. Panama, March 1, 1918.

(Signed) GERARDO ABRAHAMS,
General Registrar."

261 Judge Fairman:

For the purpose of further correcting this translation, I will ask the official interpreter to translate the next certificate annexed to Exhibit "K".

Mr. Sheibley:

(Reading:)

"This document has been removed from the contradiction suit of delimitation brought by Guillermo Patterson, Jr., by virtue of the order hereinafter transcribed, which reads as follows: 'Court One of the Circuit.—Panama. May 10, 1918.—Whereas in consideration of the foregoing memorial there is decreed the removal requested by the petitioner, with notice to the opposite party, for the period of forty-eight hours. Let notice issue. E. Fernandez Jaen. A. E. Nicolau, Acting Clerk.'"

A. Copy.

Panama, May 17, 1918.

(Signed) A. E. NICOLAU."

Judge Fairman:

Mr. Patterson, I would like to have you explain to the Court the meaning of that certificate contained on this document?

A. When Mr. Diaz instituted the suit here, he had already instituted a suit for delimitation of another estate in the Republic of Panama and I had all these documents, which were practically all as evidence in that suit in Panama, so I had to get them out, and I made a petition to the Court and the Court decreed that they be taken out and a copy left in their place

in the evidence, and they were given to me then, and I presented them here when the trial came on in 1918 in this Court. The trial took place somewhere around May and June.

The Court:

Where are the original instruments that it refers to?

A. In the Notary Public's office.

Q. You do not have possession of them yourself?

A. No, they are in the Notary's office.

Judge Fairman:

Then I infer from that, and the fact that the same certificate appears upon these other documents, that your Exhibits "G", "H", "I",—I do not know about "J",—but "K" were used in some suit in Panama?

A. That means they were passed upon in the Courts of Panama and found correct; I could use these copies or any other copy, it is immaterial.

Q. I would like to have you answer the question. These same documents which you are now presenting in this suit you have presented in evidence in a suit in the Courts of Panama?

A. Yes, sir; I would have to present the same documents in any law suit, as these are my titles.

Q. Referring to Exhibit "L", contained at pages 103 to 113, inclusive, of the record, which appears to be a contract of purchase and sale of the farm of Mata Redonda by Maria de las Nieves Collet de Martelo to Nasario Quintero,—is this an original Notarial

262 document?

A. It is a notarial copy; it is not the original,—the original is in the files of the Notary.

Q. What is the date of that document?

A. It was drawn up on March 17, 1862; this copy that I now have in my hands was given to my father by Mr. Ricardo Arias in 1891.

Q. Was that also enclosed in this folder?

A. Yes, sir; that is one of the papers in defendant's Exhibit "A-1".

Q. When was this document registered?

A. Usually the deeds are registered as soon as made, and copies have a note of being registered at the time; this copy, being made probably many years ago, will have the registry note of that time. If you will hand me the document I will tell you the exact date. (Counsel for plaintiffs hands witness Exhibit "L"). It was registered in 1862, the same year the deed was made.

Q. Where was it registered?

A. At the First Notary's office in Panama, who was at that time Jose Goti, as is plainly shown in the copy itself.

Q. The translation which appears in this record is a true and correct translation, together with the red ink interlineations across the first page thereof?

A. I do not know if Mr. Sheibley translated that or not, but if you want, I will read it. (Examines copy). It is correct according to Mr. Sheibley.

Q. Has anybody besides Mr. Sheibley made any translations for you?

A. One of these documents, I think, was translated by somebody else; all the rest were translated by Mr. Sheibley.

Mr. MacIntyre:

For the benefit of Judge Fairman, at page 77 of the record, in referring to document Exhibit "G", there is a note there "Translated from original document. (Sgd.) Juan Ml. Porcell, Jr." This document was translated

by the official interpreter in Panama; and all these translations were passed over by Mr. Sheibley here in open Court.

Judge Fairman:

Referring to Exhibit "M", which appears at pages 113 to 118, inclusive, of the record, wherein it appears that Nazario Quintero sells Mata Redonda to Mr. Arauz; is this the original document of that sale?

A. It is a Notarial copy; the original is in the Notary's office.

Q. You did not obtain this copy until 1917?

A. Exactly when I needed it.

Q. This document here was also used in evidence in a law suit in the Courts of Panama?

263 A. Yes, I used it, and if to-morrow I had another law suit I would have to take it over there again.

Q. Now, referring to Exhibit "N", contained at pages 118 to 122, inclusive, of the record, wherein it appears that Pedro Arauz sells to Jose Zayas Batista; is this a Notarial document?

A. Yes, that is a Notarial copy, the same as the other;— they are all Notarial copies.

Q. And this was translated by Mr. Sheibley?

A. Yes, sir.

Q. And this document was used in a law suit in the Courts of Panama?

A. Yes, and will be used again if I have another law suit; although I could also get another copy.

Q. Refering to Exhibit "O", at pages 122 to 128, inclusive, of the record, wherein it appears that the Judge makes perfect a public sale of Mata Redonda, is this a judicial record, or a record of a judicial sale?

A. It is a deed of transfer by the Judge of a Court who had sold it at public auction to a party named Juan Saintbois, and according to the law quoted in the deed itself, the Judge had to go to a Notary Public and make a deed and transfer the property to the one who had bought it the same as you or I or anybody else, in order to make the deed good and valid, otherwise it would not be according to the laws of the Republic of Colombia at that time.

Q. Have you anything in evidence to show how and why this Judge made this conveyance in place of the former grantee and possessor of the property?

A. Yes, sir.

Q. What is it?

A. In the deed itself it is stated that the sale was made on account of a law suit brought by Mr. Arauz against Mr. Zayas for non-payment; and once the sale was made he had to go over there and perfect the sale by means of a deed as it is required for any act inter vivos.

Q. Then it was in effect a deed of the Court pursuant to a judgment of the Court rendered in the suit between Mr. Arauz and Mr. Zayas?

A. Yes, sir.

Q. For non-payment of the purchase price of the property?

A. For part of it, or for a mortgage he had on the property.

Q. It refers to a mortgage also?

A. No, it is just the sale that the man perfects; he states he sold this property and comes to the Notary to make it good.

Q. You also used this document in the trial in a law suit in Panama?

A. Yes, sir, in the Republic of Panama,
264 not in the Zone until this case came up.

Q. Referring to Exhibit "P", contained on pages 128 to 136, inclusive, of the record, wherein it appears that Juan Saintbois transferred to Jose Zayas Batista the same property; is this the original Notarial copy of that sale?

A. It is not the original; it is a Notarial copy of that sale; the original is in the files of the Notary.

Q. Where did you obtain this document?

A. I believe this document was given to my father by Mr. Duque in 1891.

Q. This document was used in the trial of a law suit in the Courts of the Republic of Panama?

A. In the Courts of the Republic of Panama, not in the Canal Zone.

Q. But not in the Canal Zone?

A. Not until this case came up and it was then used for the first time here.

Q. Referring to Exhibit "Q", contained at pages 136 to 140, inclusive, of the record, wherein it appears that Jose Zayos Batista sells to Jose Gabriel Duque; is that the original Notarial Copy?

A. It is a Notarial copy; this copy was given to my father by Mr. Duque in 1891 when he bought the land.

Q. This document was used in the trial of a law suit in the Court of the Republic of Panama?

A. Yes, this was used in the Republic of Panama, and for the first time here in 1918 in this same trial.

Q. Referring to Exhibit "R", contained at pages 140 to 144, inclusive, of the record, wherein it appears that Jose Zayos Batista sells the remaining half of Mata Redonda property to J. G. Duque; is this the original Notarial copy issued in regard to that sale?

A. It is a Notarial copy of that sale, and was given to my father in 1891 by Mr. Duque.

Q. This document was used in the trial of a law suit in the Courts of the Republic of Panama?

A. Yes, sir, in the Republic of Panama.

Q. Referring to Exhibit "S", contained at pages 145 to 149, inclusive, of the record, wherein it appears that Duque sells one-half of the Mata Redonda to Manuel Espinosa B; I ask if this is the original Notarial document evidencing that transfer?

A. It is also a Notarial document of that sale, the original being in the archives of the Notary, and this copy I now have was given to my father in 1891 by Mr. Duque.

Q. This document was used in the trial of a
265 law suit in the Courts of the Republic of Panama?

A. Yes, sir; in the Republic of Panama.

Q. Referring to Exhibit "T", appearing at pages 149 to 155 of the record, wherein it appears that Gabriel Duque and Emanuel Espinosa Batista transferred to Guillermo Patterson the hacienda of Mata Redonda; is this the original copy issued of that transfer?

A. It is a copy of the deed by which my father bought the property in 1891; the original being in the Notary's office.

Q. Is that the first copy made of it?

A. I believe it is; it was gotten by my father in the same year.

Q. That was used in a trial of the law suit in the Courts of the Republic of Panama?

A. Yes, sir, in two suits,—one in 1899, and when my father brought proceedings to eject a man who was advised to claim that he was not in Mata Redonda, after having a contract with my father and paying rent to

him for several years; the other time was in 1917 when Mr. Diaz brought up this question in the Republic of Panama; and then, it was used here in 1918 in this same case we have now before us, but for the first time in the Zone in 1918.

Q. Referring to Exhibit "W", which appears at pages 155 to 159, inclusive, of the record, wherein it appears that Duque and Espinosa corrected the boundaries of the farm called Mata Redonda; is that the original Notarial copy of that?

A. It is a Notarial copy; the original is in the records of the Notary, and was made in 1891, and this copy was obtained in 1891. This deed was made for the purpose of correcting a slight mistake made involutary by the Notary when writing out the deeds.

Q. This was used in the trial of the law suit in the Courts of the Republic of Panama?

A. It was used twice in the Republic of Panama, the same as the previous one in the suit in ejectment in 1899, which suit was decided in my father's favor—

Q. (Interrupting): Was that used in a suit—

Mr. MacIntyre:

(Interrupting): I would like to state at this time, that all documents and exhibits referred to by counsel were attached as exhibits to our original answer in this case, and to them was attached our Exhibit "W", which is the correct certificate in proper form as required by our Code authenticating the signatures of the Notaries to each and every one of those deeds, and I now offer in evidence defendant's Exhibit "W". This was part of those exhibits and became loose in
266 Court during the two or three years since 1918.

The Court:

Well, let it be admitted.

Judge Fairman:

I am not in position to offer any objection.

The Court:

As long as it is in the other case it is no use making any objections to it.

Judge Fairman:

Oh, this is a certificate certifying to other documents. That is all right; there is no objection to that. I am not disposed to question it unless it refers to judicial proceedings.

Mr. MacIntyre:

It only refers to the documents mentioned therein.

Judge Fairman:

(Continuing). Referring to Exhibit "V" contained at pages 159 to 164 of the record, wherein it appears that Juan de Dios Arosemena sold to Carlos Ycaza the land called San Jose; is that the Notarial copy of that document?

A. Yes, sir; I obtained it in 1918 when this suit was about to be started.

Q. There appears on this document a place marked with blue pencil; do you know who placed that mark on it?

A. No, I could not tell you.

Q. Was it on there when you got it?

A. Apparently not, because the Notarial copy has no marks; but I could not tell you now whether it was placed there while in my possession or after leaving my possession, I cannot remember that.

Q. You did not use this document in any trial in a law suit in Panama?

A. It was obtained specially for this trial on the Canal Zone.

Q. For what particular purpose?

A. I am not very certain; but I believe there was an agreement to introduce two deeds of the San Jose property to make clear the boundary of Mata Redonda and Lo de Caceres; Mr. Diaz introduced one also.

Q. Then it was in aid of ascertaining the boundary lines and marks?

A. Yes, sir, especially the spot called Mata Redonda and the Porto Bello Road.

Q. And this has nothing to do with the title, with that exception, to the property you claim. In the former trial of this case, Mr. Patterson, these exhibits and documents which I have referred to, were all the deeds which you relied upon to sustain your title to the estate of Mata Redonda?

A. Well, I relied partly on them; I also relied on my possession.

Q. I will ask that these original deeds and
267 documents be placed in the custody of this Court pending further—

Mr. MacIntyre:

(Interrupting) They are already in the custody of the Court.

Witness:

They were temporarily taken out to be re-certified, because you objected to the certificate.

Judge Fairman:

(Continuing): Now, Mr. Patterson, you have at least since the year 1911 at the time you returned from the States and until the year 1913 or 1914 when you left that property and since that time had occasion to go

over every boundary line of the property which you claim?

A. Well, I walked around it many times hunting, and just following the boundary, and going through there for many purposes.

Q. You are thoroughly familiar with the land in all its aspects and various boundary marks?

A. I should say I am, I was brought up there.

Q. Now, you made a statement to the effect that the place which you marked there as Pena Hueca and Mata Redonda was placed there by agreement with Ramon Garcia de Paredes?

A. That mark on the stone, yes, sir.

Q. Is that stone within the boundary line of anybody else's property?

Q. Yes, sir, at the union of the estate of La Gloria, Lo de Caceres, and Mata Redonda.

Q. The three estates join right at that point?

A. Yes, sir.

Q. Did any of the property owners other than Paredes make any agreement with respect to placing the monument there?

A. My father was one of the owners, and Mr. Paredes, and at that time I believe La Gloria had not been sold.

Q. And it was then part of what estate?

A. Part of Lo de Caceres; maybe Mr. Diaz can help us on that point.

Q. It was part of Lo de Caceres?

A. I think so; I may add, to make this plain, the estate of La Gloria was sold in two portions, one portion opposite Mr. Diaz' house on Lo de Caceres to Mr. Aleman, and many years afterwards the other portion to the west of the old Porto Bello road, going to the spot called Mata Redonda, was sold to Mr. Aleman.

Q. Know who executed these conveyances?

A. I do not know about those deeds, they are Aleman's deeds; I may have had them but not studied them.

Q. Prior to their conveyance they were part of Lo de Caceres land?

A. I understand there was a dispute between Pan de Azucar and Lo de Caceres at the time.

268 Q. Now, you stated that that particular inscription on this rock was placed there with agreement of Mr. Paredes?

A. Yes, sir; you heard read the letter where he agreed to it.

Q. Does that indicate to you there was any question between your father and Mr. Paredes as to this boundary?

A. It seems to me they were in perfect accord.

Q. Prior to the placing of that monument does it appear there was any dispute?

A. No, or he would not have agreed to place any monuments.

Q. On the other hand, if there were no agreement?

A. My father would have had possession of exactly the same amount of land which he bought and held since.

Q. You stated your father spent upon this land about forty-five thousand pesos?

A. Yes, sir, and perhaps more; he built many fences, cleared the land, built houses, as you all saw in the ocular inspection, a little northwest of the spot called Mata Redonda, and later on he built a mahogany house at the other place, from lumber cut on the same land.

Q. Now, about how much land did he cause to be cleared there?

A. I could not tell you off hand, but I know he did clear a lot of land there.

Q. Can you give us some approximate idea?

Mr. MacIntyre:

The witness can point out to you on your Exhibit "2" the lands cleared by his father.

Judge Fairman:

All right, I would like to have him do it.

Witness:

(Indicating on Exhibit "2".) He cleared back of this old house a large place where he planted sugar cane; on the Porto Bello trail back of Patterson's old house, the spot "Unknown O. 8"; he also cleared all the way from the Bano creek to the house, and made a small grass place there; then he cleared out a hill somewhere on the Bano creek, that is, the slope of the hill, and planted corn and sugar cane. Then from here he cleared some place to plant vegetables used on the farm. He also kept up some of the grass pastures marked here as "Meadows" near the road to the chapel, and inside the large fence that comes near the chapel and makes a curve in the direction of the point marked Real, and turns over to a place marked Ididora la Borsjo, 2. 8, and follows that fence around the other side of the chapel down to the Palangana creek.

Q. Then he cleared approximately a thou-
269 sand acres?

A. No; the whole land is only one thousand hectares; probably some two hundred or two hundred and fifty hectares.

Q. The most of that he placed in pastures?

A. The most of it he placed in pastures.

Q. I note here on what is apparently part of La Gloria land, a house marked Patterson, and also Zayas?

A. No, sir, the boundary line is the straight line and is very clearly marked; north of the line is where

the marks saying Zayas House and Patterson House are; to the south is La Gloria.

Q. But within the boundaries where your house was, was also claimed by Mr. Aleman?

A. I stated before Mr. Aleman waived his claim in the Panama Court, and said Mr. Diaz is owner and claiming it now.

Q. Now we go to the north side; how much fence line did you build?

A. My father built a number of fences in dividing the pastures; he had fences all around where he lived; the places planted in sugar cane, and these small pastures near the house on the east side of the Bano Bello creek, were all fenced around, and I believe we saw that fence a few days ago that are not shown; there also were fences on the larger pastures, and others that are not marked. Also a fence had been repaired many times by my father going from the spot called Mata Redonda up to the Algarrobo; and also the fence back of the chapel and around to the large pastures, were also repaired; this was usually done with rent by the tenants, each tenant working so many days a year.

Q. Are these the fence lines marked here? (Indicating).

A. Yes, sir.

Q. Your father built that?

A. No, it was there before my father bought the property.

Q. And this fence was supposed to mark your boundary?

A. Supposed to go right along the Porto Bello trail, and which was supposed to be the boundary line; it was supposed to be a straight line,—you would not think it was such a curve; of course. at that time the

engineers had made no maps and we took it as a straight line.

Q. Can you show me on this map where Mr. Diaz' house is?

A. I could not show you exactly, but according to the marks Mr. Diaz had placed on this map this house is near the hill called Barro Colorado.

Q. This place right here? (Indicating.)

270 A. It is marked "Diaz' House" by the attorney for the plaintiff.

Mr. MacIntyre:

We will agree on behalf of the defendant that Mr. Diaz' house is aproximately in the vicinity which is now marked "Diaz' House."

Judge Fairman:

I believe, Mr. Patterson, you have marked Gallinasos here?

A. Yes, from the description of the Lo de Caceres deed of 1755.

Q. The old house that you first lived in right back of the chapel, did your father build that house?

A. No, the one northeast of the chapel was built by Mr. Arauz, and he lived there before my father bought the property.

Q. Then there was another house right close to the old chapel?

A. There was a ruin of the house where Mrs. Florencia Hincapie testified this morning she lived; the chapel ruins are still there.

Q. Please indicate on the map the approximate location of the stone monument which has on one side the words "Rio Hondo," and has been defaced at some time on both sides?

A. (Indicating) It is at the place marked on the map as Paso Real Antiguo.

Q. The first house your father built on this land, about what size was it?

A. It was a four-room house, with an extension to it.

Q. Built of wood?

A. Wood; pine wood and a kitchen right beside it.

Q. About what was the value of that house, the cost?

A. I could not say exactly what it would have cost at the time, but I do not think less than five or six thousand pesos.

Q. About half that amount in gold?

A. Yes, it probably was more than half at that time.

Q. Now the other house that he built?

A. The other house was a larger house, and was made out of mahogany,—all the boards were mahogany, and the floor was mahogany,—the other house was nearly eaten up in two years with wood ants, so that he built this house that way. It had an iron roof. That house cost my father a whole lot more than the other because he brought men to cut the mahogany, and carried it away down there to build the house; I believe it cost at least twice as much.

Q. Tear that house down?

A. That house was torn down and the wood taken away by squatters after the Canal Zone had notified us we had to leave the place; it was taken away around 1916 or 1917 sometime; also the wires in the main fences have been taken away since.

271 Q. The first house you bulit sometime between August and December of 1891?

A. I could not state exactly; it may have been in June or July, but I know it was in 1891.

Q. The second house you built sometime between July and December, 1893?

A. In a period of less than two years from the time of the first house.

Q. So that you lived in the second house approximately from 1893 to 1913?

A. The house was there until 1916, but the last time I lived in that house was February, 1913,—that is, I myself,—we had people in there after.

Q. Approximately twenty years. About how many miles of fence do you suppose were on the land?

A. A good many miles.

Q. Was it all barbed wire fence?

A. All barbed wire.

Q. How many strands?

A. Some four, and some had three strands.

Q. Know how much a mile it cost to put up a three strand fence?

A. At least $150 to $200, American gold.

Q. Per mile?

A. Oh, no. It cost more than that. Perhaps Mr. Diaz can tell us,-I have not built any fences lately, and I could not tell exactly.

Q. Then you never built any fences?

A. My father built the fences.

Q. When you stated some forty-five thousand pesos, do you mean that is equivalent to twenty-two thousand, five hundred dollars, gold?

A. At least, perhaps more.

Q. You consider the improvements I mentioned, all improvements on that land?

A. No, for instance my father built a house temporarily to place the corn,—those houses may last three or four years, and then be torn down. Some pastures were built, and then abandoned; some other places were cleared and used for corn and vegetables and then bush would grow up again, and things of that sort.

Q. How much land in its entirety do you estimate your father cleared?

A. Considering there are nearly two hundred hectares of pasture, I should think he would have to clear at least twice that much.

Q. Then he would have cleared four hundred hectares?

A. At least, this is only a rough estimate.

Q. None of that, or not all of that was in the land in dispute?

A. Most of it was; my father always cleared around the house.

Q. You would be safe in stating three-fourths
272 was in that territory?

A. Perhaps more.

Q. So that there would be at least three hundred hectares?

A. At least.

Q. What is the total area of that property in dispute?

A. In the Canal Zone?

Q. Yes.

A. In the Canal Zone is over a thousand, and altogether in dispute is over five hundred.

Q. And over three hundred hectares of the improvements were placed within that disputed area?

A. I think so; the map will show most of the population was on that disputed area.

Q. How much does it cost per hectare to clear land?

A. Of course, we would have to consider the times; it was cheaper at some periods of the year when the men were unoccupied, than when the men were working at other places,—then it was harder to get them, and they would have to be paid more; but as an average, let's say about a hundred dollars to clear and plant it.

Q. Per hectare?

A. Yes.

Q. And then you spent about thirty thousand dollars, gold, for clearing the land?

A. It might be; that depends on the seed you have to plant, whether you have it, and all other things that contribute to make different prices; so that the value I am stating is only approximate.

Q. You kept no books of account?

A. Well, my father perhaps kept some notes; not all of it; he did not have to.

The Court:

Let me ask, I have seen your father in Court once or twice, is he afflicted?

A. Yes, sir; he has a nervous disease, which has impaired his sight and his hearing, and his mind and memory a lot.

Q. How long has he been thus afflicted?

A. Some six or seven years.

Q. What is the age of your father?

A. Sixty-five or sixty-six.

Q. Is he able to go about alone?

A. No, he has to be taken by myself, or by my wife, and he usually doesn't go on foot. About the house, he can walk all right; he also walks to the public square near the house, called Santa Ana, because he knows the way; however, it has been nearly a year that he does not go alone.

Q. Is his mental condition such that he could testify correctly?

A. No, sometimes when he is speaking to me he suddenly forgets and cannot remember what he said until half an hour later, and I am afraid he could not testify

very well; that is the very reason my father did
273 not testify before when this case was tried; at that time the attorney for the plaintiff was so kind as to say my father did not testify because he was afraid of telling any lies.

Q. I just made inquiry because I saw your father in the Court.

Judge Fairman:

You do not intend to have him testify?

A. No, I do not think he is in physical condition; he is willing to testify, but of course, I do not believe he can give any testimony of any account, his memory is not good.

Q. Now, going back to our improvements again; accepting your statement as made, the estimate of forty-five thousand pesos, is that anything less than the amount of money you actually expended between the years 1891 and 1913?

A. Yes.

Q. You did not expend any money on that property after 1913?

A. No, not even before that unless you take into account the payment of rent by the tenants, for which they built up wires and posts on the fences, instead of paying money; and that was done until we had to get out.

The Court:

After the Canal Zone, or the Government of the United States, got possession of that tract of land now in dispute in the Canal Zone in this litigation, did you or your tenants remain on that land?

A. Yes, my tenants remained on there until about 1915; they were given time to go, and a good many of

them went right away, others asked for an extension of time. I remember one man particularly who had quite a little place there; he had one thousand orange trees and fruit trees, and wanted to remove the smaller ones, and he asked for an extension, and I believe that man did not go away until the end of 1915, or until 1916.

Q. He got an extension from the Government?

A. Yes, sir; from the Government.

Judge Fairman:

What was that man's name?

A. His surname was Garrido; he is called on the map Martin Goriano.

The Court:

When you speak of him having a lot of fruit trees—

A. (Interrupting) That was also done as payment of rent; they usually paid by planting trees and fixing fences,—some planted fruit trees and some fixed fences.

Q. The fruit trees put out by your tenants were for payment of rent?

A. Yes, sir.

Judge Fairman:

Was this tenant paid by the Government?

A. No, my father was paid; they estimated it and gave him whatever they wanted,—something like five cents for a cocoanut tree, and five cents for a banana plant,—that was the way they appraised it.

274 Q. Did you derive any cash revenue from the property?

A. Some of the tenants preferred paying in cash, but very few.

Q. About how much revenue in cash did you derive in a year?

A. The rent was three pesos per hectare per year; later on, gradually, it was raised to fifteen pesos; but the natives prefer to pay rent as work, and the Chinamen, some of them would pay in vegetables and others pay by planting fruit trees; and others, a very small number, paid in cash, not more than four or five.

Q. So that your annual revenue in cash would not exceed one hundred dollars?

A. Nowhere near that in cash.

Q. What revenue did you derive from that property in conducting a business on it?

A. My father had a dairy farm, and he used to sell quite a lot of milk, but milk sold rather cheap at that time,—twenty cents silver,—which is now about ten cents gold, and that money he placed right on the farm in improvements.

Q. About how much would you estimate his annual revenue was from that source?

A. He would clear five or six dollars a day.

Q. Equivalent to fifteen hundred dollars a year?

A. Yes, about eighteen hundred to two thousand dollars a year.

Q. That is only from the milk. Then he got revenue from other sources?

A. Yes, from the fruit trees.

Q. He receive any cash income?

A. No,—once he had planted and sold some corn,—he used to sell corn at times.

Q. How much revenue did he derive from that?

A. I could not say; one time I remember he built a large shed and it was packed full of corn.

Q. From the year 1891 to the Revolution of '99, your father devoted his entire time and attention to this?

A. Practically so; he was also employed in Panama while we lived there, and he took advantage of that employment to take care of selling things in the city.

Q. By whom was he employed?

A. By Mr. Espinosa; he was in Mr. Espinosa's employ for about twenty-two years.

Q. After 1899 your revenue from the property ceased?

A. Practically so; the only revenue we had since was the fruit trees planted by the tenants, the repair of the fences with the rent money, or work,—either way; and small portion of vegetables brought to us sometimes in payment of rent.

Q. Did you estimate these improvements made by the natives in payment of rent as part of the money
275 your father spent on the property?

A. Yes, and I think it belongs to my father.

Q. About how many tenants did you have on the property?

A. I could not tell exactly how many he had all the time; but I can tell this: when the Canal Zone put these tenants out they took note of all of them, in the part inside the Canal Zone and the part outside the Canal Zone, and we had altogether about one hundred and eighty tenants.

Q. But you do not know how many tenants were on this particular part of the property now in dispute?

A. About fifty, approximately.

Q. Their average payments to you either in work or money per year ran from three to fifteen dollars?

A. Three pesos to fifteen pesos per annum.

Q. So that the outside income you would derive from all tenants provided they paid in cash instead of services would be from three hundred to five hundred dollars per annum?

A. Yes, sir; probably so.

Q. Did your father have any other source of income other than that which you stated and his salary?

A. He had saved some money when he worked with the French Canal, and he built a house for which he obtained rent, but he was paying for the building of it with the rental so that practically he did not have that rent.

Q. When did he build that house?

A. Around 1883 or '84; I was only one or two years old when he built it.

Q. He built that while he was employed by the French Canal Company?

A. Yes, sir.

Mr. MacIntyre:

May it please your Honor, I have no objection to the plaintiff proving up our case, but it appears to me we are wasting a lot of time; a lot of this matter is immaterial.

The Court:

I think it is unnecessary to prolong this examination in this way.

Judge Fairman: (Continuing):

When your father bought this property in 1891, did he pay cash for it?

A. No, he paid part cash, and there was a mortgage on the place for the rest of it.

Q. How much cash did he pay?

A. I do not remember exactly, I think some three thousand pesos.

Q. What was the total purchase price?

A. Ten thousand pesos, in fact; but it does not appear in the deed.

276 Q. What price is in the deed?

A. I think the deed speaks for itself.

Q. And you paid about two thousand dollars cash?

A. About three thousand pesos, that is what I think, of course, I do not remember such details, it has been such a long while. I may add this: my father's salary was almost all left with Mr. Espinosa for the payment of this land during the time he worked there, and it took him a long period of time to pay it off.

Q. And in addition to that he spent forty-five thousand pesos?

A. Yes, as he got it; he never had any forty-five thousand pesos at one time, of course not; but ten dollars, or so, at a time.

Q. You stated there was no controversy between your father and Ramon Garcia de Paredes?

A. I understand there was not.

Q. You have read the testimony off Mr. Paredes as contained on pages 178 to 183 of the record of the former trial, have you?

A. Yes, that testimony was a great surprise to all of us and Mr. Paredes himself when he saw he had said before the Judge in Panama which was the spot called Mata Redonda, and he had written the letter he apparently had forgotten and which is inserted in that testimony.

Q. Then when Mr. Paredes says as follows: "that we had several conferences with regard to controversies,"—did Mr. Paredes lie?

A. I think it was shown he was not telling the truth by reading the statement made by him in 1914 on the other page.

Q. Then when the witness testified in regard to the particular letter you mentioned that it was "a provisional offer" but that he did not say that it was provisional; that he did not say in the letter in which Pena Hueca or rock the inscription was to be placed whether on the

one above or below,"—was there any question of two Pena Huecas?

A. I never heard of any such question until Mr. Aleman brought that question up, and later Mr. Diaz; but I never heard of such a dispute between my father and Mr. Paredes.

Q. Then this is the first time you heard there was a difference in opinion as to the spot called Pena Hueca?

A. Yes, sir; this is the first time with Mr. Paredes.

Q. You stated yesterday, I think, naming five residents or tenants, I might call them, on the lands now in dispute,—Ariso, Horace, Majagua, Hernan-
277 dez, and Garibaldi, and you stated, I believe, that they were on the land when you went there?

A. No, I do not believe I said that; I believe that Horace was there not more than eight or ten years; Majagua was there long,—that Majagua was there before I went there.

Q. Well, you say they paid rent to your father?

A. Yes, sir.

Q. Cash and services?

A. Yes,—the way I explained already.

Q. Cash or services?

A. I could not tell you, sometimes one way and sometimes another, but it is very probable all these paid by fixing fences or planting fruit trees.

Q. You also made a statement that prior to paying rent to your father they paid rent to Duque and Zayas?

A. Yes, so far as I know.

Q. How do you know?

A. Because we lived on that land a long while, and they paid their rents periodically, and when my father was taking care of the place for Mr. Duque they were all accustomed to paying rent to him.

Q. In 1891 you were nine years of age?

A. About.

Q. And you know prior to 1891 these men paid rent to Duque and Zayas?

A. Yes, from what I derived they paid rent.

Q. As a matter of fact is not that mere surmise on your part?

A. Well, it is the same as anything else,—you cannot testify of your own knowledge what your age is because you could not know when you were born,—we know things that way, and yet we swear our age is that many years; you have done it, and I have done it. I know that they paid rent exactly the same way I know what my exact age is.

Q. In other words you are testifying as to hearsay?

A. No; when you testify as to your name and age you are not testifying on hearsay.

The Court:

This is all waste of time, and will not do the Court or you any good. If Mr. Patterson testified to anything that you can contradict,—well then,—but we have no time to waste.

Judge Fairman: (Continuing):

You testified at great length yesterday to the various deeds and documents, to which you also again testified this morning, all your testimony in that regard is obtained not from your personal knowledge but from your inspection and examination of the documents; is that not true?

A. I do not see in which other way I could have obtained personal knowledge, or anybody else could have obtained personal knowledge. I have, as I said, been in

the Notary Public's office and examined the
278 archives many times, and have seen with my own eyes all these deeds,—I call that my own personal knowledge.

Q. What was that document you found in 1905?

A. I read all the papers and documents that my father had, receipts given for different things by such men as Zayas and Quintero, deeds, and everything.

Q. You had documents relative to the law suit between Mrs. Miro and Paredes in 1841?

A. Yes, sir.

Q. You did not present that in the former trial in this case?

A. No; I gave it to my lawyer, but he thought he would not have to use it.

Q. You now consider it some of your most valuable evidence?

A. Since I found out a number of other things relating to it which made it more valuable. Since the last trial I found the statements got by Paredes and the deed in 1832; also found that plaintiff had introduced pleadings of 1790,—things I was not aware of at the time of the former trial.

Q. Mr. Patterson, at all times, from 1891 until such time as the matter was turned over to you in 1905, the several papers, "J" and "L," and the present documents herein were contained in this folder?

A. Yes, sir.

Q. And were never taken out?

A. Not unless taken out and read, and put back in the same form.

Q. So that for a period of all these years, nearly thirty years we will say, they have maintained this same form and shape?

A. Yes, sir.

Q. Now, I exhibit to you the document in question, and call your attention to the fact that they appear to have been folded in various ways, cross ways and length ways?

A. Yes, but this special document was in possession of Mr. Jose Garcia de Paredes for some time, I believe. And this is a letter of Mr. Quintero, I have no special interest in this, it seems to have been folded length ways probably prior to the time it was folded cross ways.

Q. And this paper here has also the ear marks of being folded cross ways some time?

A. Yes.

Q. And here is one paper that appears to have been folded the same way?

A. Yes, this was in the possession of Mr. Jose Garcia de Paredes, being a note in favor of Jose Garcia de Paredes by Mr. Quintero from whom he bought all his cattle; it may be Mr. Quintero had it folded one way and Mr. Paredes another way.

Q. That folding is still there,—what's that indicate?

A. That it can be folded both ways.

279 Q. And then the same package might have been placed in some other package?

A. Not necessarily, it might have been placed back in that same package.

Q. Now, Mr. Patterson, you introduced some .x receipts this morning?

A. Yes, sir.

Q. Tax receipts upon real estate?

A. Yes, sir.

Q. What real property did you ever pay taxes on?

A. On the estate of Mata Redonda, by my father.

Q. Under what laws did you ever pay such taxes?

A. The laws of the Canal Zone, the laws of the Republic of Panama, and the laws of Colombia.

Q. Have you any tax receipts of the Republic of Panama on land?

A. I have.

Q. Under what law of the Canal Zone did you pay taxes on land?

A. The tax law,—some act of the Commission.

Q. Was that tax upon land?

A. I understand it is.

Q. Don't you know there never has been a tax on land in the Canal Zone?

A. There was a tax,—or, a rental.

Q. It's a tax on improvements on the land?

A. Not necessarily improvements, it may be rental of the land; if I rent land and get some rental out of the land I would be taxed on that rental,—it is an indirect tax on land. I would like to state I have now in my hand one of the receipts given by the Government of the Canal Zone, and it says "in payment of tax on real estate, No. 249."

Q. Now, Mr. Patterson, I will ask you to take the deed of 1891,—the corrected deed, I think,—and take the description of the lands of Mata Redonda as described in there, and trace them upon this map? (Indicating plaintiff's Exhibit "2.")

A. From the Mata Redonda a straight line to Algarrobo; from there a straight line to Vidrio; from there to the Cerro Gordo; and then it goes to the headwaters of the Cardenas River, and then down that river to the junction of the Palangano; and from there to the place where the Platanar empties into the Palangano; and then following the Platanar up stream to its headwaters; and from there a straight line to the Mata Redonda, which gives a line in an easterly direction from Platanar.

Q. There is on this map a stream called the Rio Hondo, which is the source of that stream?

A. By popular repute I have known it to be at the place called Paso Real Antiguo.

280 Q. What is this stream? (Indicating)

A. That is the Quebrada San Jose.

Q. But it is the same stream as the Rio Hondo?

A. It empties into the Rio Hondo; and further down it is called the Corundu River, near the old Corozal Road.

Q. If these names were not placed in here, Bano Bello and San Jose, you would continue the Rio Hondo here?

A. If you take that branch to the right you would, if to the left, you would not.

Q. I mean if you take the larger branch?

A. Yes, if you take the right you wind up at the headwaters of the Bano Bello.

Q. Referring to the transcript of the former trial of this case at page 294, I find therein a petition addressed to the Judge of the First Circuit by Guillermo Patterson, wherein you state you are owner of the estate known as Mata Redonda, and wherein you give boundaries; I would like to have you reconcile the boundaries given in that petition with the boundaries just cited?

A. It is a petition by my father and not by me; the boundaries here are exactly the same boundaries as given in the deed, but the wording is different so as to explain the different positions of the different points. The boundary line, "from the spot called Mata Redonda or Pena Hueca," that is right here (indicating) on this map; "a line to the Algarrobo Hill which is more or less a straight line following the road which leads to Lucha Franco up to the crossing of the Tesorera Creek known as 'Los Tres Pasos'; thence following the said stream upstream to its headwaters (which bathes the skirts of Algarrobo Hill, Vidrio Hill and Gordo Hill where it starts). From there a straight line to the

upper part of the Penon and continuous on the hill until it reaches the headwaters of the principal branch of the Cardenas River (whose origin is at the Penon); thence it circles around to the other branch of the said river known as the Quebrada Larga and following this river down stream to the place where the Palangana Creek empties into it, the said creek having its origin within my estate; then following this creek upstream to the place where a creek with a stony bed which crosses the old papaya field known as the Platanar creek empties into it; following the latter upstream to its headwaters and from there a straight line to the spot called Mata Redonda or the Pena Hueca (which is within the bush called Mata Redonda, the starting point)." It is exactly as stated in the other deed, only it ex-
281 plains exactly where these places and things are.

Q. Now, in this particular description, from here (indicating) you do not go in straight?

A. No, we follow the Porto Bello trail, which we always took as a straight line, and which has been fenced in for over thirty years; this trail takes in a small piece here, and another piece here, and then goes in here again and leaves out another piece of my father's estate. (Indicating on Exhibit "2.")

Q. Don't you go over here to Lucha Franco?

A. No, my father's title called for Lucha Franco on the north; and the only way we can bound Lucha Franco on the north is by taking in the slope of the Algarrobo Hill.

Q. Is this Lucha Franco here? (Indicating)

A. Yes.

Q. So that in any event your boundary of Lucha Franco comes here, and not down here? (Indicating on Exhibit "2.")

A. Yes.

Q. Your boundary of Lucha Franco would be upon the northwest, and not upon the north?

A. It would be here on the north; this is the north here (indicating).

Q. It does not adjoin your property?

A. Oh, yes, it adjoins my property; Lucha Franco is outside of the Canal Zone, so that all these boundaries and that land is not in litigation in this Court.

Q. That green line does not exist?

A. No.

Q. Lucha Franco runs to the white line?

A. Yes, sir; this quebrada comes right on the slope of this side of the hill; and so does this quebrada.

Q. This is part of Lo de Caceres in the Canal Zone?

A. Yes, sir.

Q. You do not claim to own any part of that?

A. No, we do not claim to own any part of Lo de Caceres not in dispute; in fact Mr. Diaz was already paid for that.

Q. Referring to the triangle at the apex of the Canal Zone boundary line, marked by monument F, do you claim ownership of that?

A. Just now the question is that if I do not claim that land I must claim the land that is within the fence; if Mr. Diaz admits that my land goes in a straight line from the spot called Mata Redonda on the map as I claim, to the place between monuments 86 and 87 on the Canal Zone boundary,—if he admits that line then I am perfectly willing to have that line and let him have that portion which has been in my possession, and get back the portion of my land that has been given to him.

The Court:

You say that land was given to Mr. Diaz if your fence was there for over thirty years and marked the line?

A. When this map was made a straight was
282 drawn.

Q. Making a map does not take the title away; the old fence which was established for more than thirty years would establish the line.

A. Yes, sir; but it means that a portion of that land is included in Mr. Diaz, and a portion of that is out.

Q. Gentlemen, that would be an important thing in this case, if it should be shown it throws some land of Mr. Diaz' out, and the fence marked the land for thirty years, the question would be,—if Mr. Patterson insists,—that the line should not be by the fence.

Judge Fairman: (Continuing):

Now, Mr. Patterson, in June of 1918, you and your father effected a division of this land between yourselves?

A. Yes, sir; in Panama.

Q. Now, I will ask you to take,—no, first I will ask you to state whether or not this is a copy of the proceedings between yourself and your father to effect a division of that land?

A. Yes, sir; this is it.

Q. Plaintiffs' Exhibit "R-1,"—I will ask you to state again if this is a true copy of the proceedings between your father and yourself?

A. It is a Notarial copy of a deed made out in the office of Notary Public Number Two, to divide land in the Republic of Panama with my father and myself.

Q. That land of Mata Redonda?

A. Yes, sir; part of it; it is not only land, it is also some other real estate.

Q. It refers to Mata Redonda and describes the entire property?

A. No, not the entire property, it describes part of the property in the Republic of Panama, and also some other real estate.

Q. It is part of the property gained by your father in the deed from Duque?

A. Yes, sir.

Q. We offer plaintiffs' Exhibit "R-1."

Mr. MacIntyre:

To which we object on the grounds it is irrelevant, being a private transaction between Mr. Patterson and his son concerning property in a foreign country.

The Court:

The objection is sustained; it will be against the other side if admitted.

Mr. MacIntyre:

We will withdraw our objection.

The Court:

It may be admitted in evidence. (To counsl for plaintiffs): It will be against you.

Judge Fairman:

Now, I want you to take the boundaries as set forth in this particular document, and make them
283 coincide with the boundaries of your land wherein you state your line runs to Cerro Algarrobo?

A. These boundaries refer to land outside of the Canal Zone, and only go to the line, which says as fol-

lows, within the Canal Zone: "an imaginary line going from the bush known by the name of 'La Mata Redonda,' which bush is in lands of the Canal Zone, in the open land, alongside the Porto Bello road at the place where the properties of La Gloria, Lo de Caceres and Mata Redonda adjoin, opposite the place where the houses of Mr. Patterson are located, from said bush in a north-northwesterly direction to the hill of the Algarrobo, which hill is alongside the same Porto Bello road and the north slope thereof is washed by the stream La Tesorera. From said point of intersection with the boundary of the Zone, which point is some one hundred meters from the monument No. 87, the boundary continues by the line mentioned to the hill Algarrobo inclusive, and from said hill it continues in a westerly direction to the hills of the Vidrio and Cerro Gordo inclusive, whose north slopes are also washed by the stream La Tesorera, by which stream the boundaries follow to the headwaters thereof which are at the foot of the Cerro Gordo, and from the slopes of said hill Cerro Gordo the line goes in a north-northwesterly direction to the headwaters of the river Cardenas, turning from the stream of the principal branch rising in the mountains of the Penon and Penoncito to the branch known under the name of Quebrada Larga which rises at the foot of one of the peaks of the hill of Mocambo; thereafter the boundaries continue following this branch of said river downstream in a southerly direction, to meeting the boundary of the Canal Zone," (indicating on Exhibit "2") "the boundary returns in a southeasterly direction to meeting the point of intersection at some one hundred meters from monument No. 87,, which was taken as a starting point";—this indicates the course of the line from Mata Redonda is somewhere between monuments

86 and 87, and says this line described is entirely outside the Canal Zone.

Q. Now, Mr. Patterson, I exhibit to you plaintiffs' Exhibit "R-2" and ask you to state what that is?

A. This is a certificate given by a man named Gerardo Abrahams, and purports to be a registry of property in Panama.

Q. What property?

A. Real estate.

Q. What kind?

A. All kinds.

Q. What particular property does that certificate refer to?

A. It refers to the lands of Mata Redonda, but as I have read it some statements in it are not correct.

Q. Were you instrumental in having this
284 certificate issued?

A. I do not think so. (Examines same.) No; it is at the request of Mr. Domingo Diaz.

Q. Where?

A. Right here (indicating).

Q. Now, referring to these proceedings between your father and yourself, what happened to that petition?

A. What petition?

Q. What happened to the deed that you and your father drew up for the partition of that property,—that property of Mata Redonda?

A. Nothing happened to it.

The Court:

Get some question that the witness and the Court can understand.

Judge Fairman:

We will withdraw the question. (To witness): Under the provisions of plaintiffs' Exhibit "R-1," which is a

copy of a division of properties, among others, part of the properties of the Mata Redonda between yourself and your father, what action, if any, did the Registrar of the Republic of Panama take with respect to that transaction?

Mr. MacIntyre:

To which question we object,—that is entirely immaterial.

The Court:

What are you trying to prove?

Judge Fairman:

I am trying to prove that Mr. Patterson and his son, by means of a pretended division, sought to rectify the description of the properties of Mata Redonda outside the Canal Zone, and that upon presenting it for registration, and even after it was registered, I am trying to prove the Registrar ordered this record cancelled on the ground it was not justified.

The Court:

The Registrar might have made a mistake; I cannot go into that proposition; if that is what it is, the objection is sustained. As to what the Registrar did, that is a different proposition, he might be right or he might be wrong; if Mr. Patterson went into any transaction with his father that was "shady" you can ask him.

Judge Fairman:

The materiality of it may be introduced later.

The Court:

I will have to sustain the objection to that.

Judge Fairman:

The plaintiffs save an exception. (Continuing): Now, Mr. Patterson, referring to the hill of Gallinasos in the document,—your Exhibit "J,"—we find the following description of the lands of Mata Redonda: "On the lower side, from the spot called Mata Redonda to the limits of the River Cardenas, including its headwaters and springs; on the bottom, the same river downstream to the junction of the Palangana Creek and to this point coming down a stream with a stone bed which
285 meets the Palangana stream, and on the upper side, from the hill called Gallinazos to the furthest boundaries of Mocambo." Can you indicate to me on that map how that line would run;—"and to this point coming down stream with a stone bed which meets the Palangana stream; and on the upper side, from the hill called Gallinazos to the furthest boundaries of Mocambo."

A. I have indicated it twice,—"from the hill called Gallinazos to the furthest boundaries of Mocambo,"—Gallinazos hill is marked here (indicating on Exhibit "2"), and the further boundaries of Mocambo is a straight line.

Q. That is Gallinazos which you consider as being established in this deed?

A. Certainly not by these deeds alone, but by Mr. Diaz's deed, which says that a straight line goes up to Sonsonate hill and that of Gallinazos; and being a straight line they must be in the same direction and near together.

Q. Then your line would run from here to that point there and on around the same old proposition? (Indicating on plaintiffs' Exhibit "2.")

A. Yes, sir.

Q. Now, we will start this other way, from the spot called Mata Redonda, that is here (indicating)?

A. Yes, sir.

Q. To the limits of the River Cardenas,—where do you go there?

A. That's a visual line, the same as given in the Diaz deed.

Q. Then on the bottom on the same river?

A. That's the River Cardenas, coming down to the junction of the Palangana Creek.

Q. From this point to this point (indicating) is a visual line?

A. Yes.

Q. Then your real starting point is here (indicating) and not here (indicating)?

A. Yes, this is the starting point here (indicating).

Q. Then you would draw the line here (indicating)?

A. Yes, you have to draw a line to get in the river, and then it stops there.

Q. This (indicating) being a visual line, we start here (indicating) with the description of the boundaries?

A. With the real boundaries,—having established the point Mata Redonda.

Q. Then we come down to the junction of the Palangana Creek, and to this point coming down stream, to the stream with a stone bed which meets the Palangana stream?

A. Yes, sir; that is at this point here (indicating).

Q. On the upper side from the hill called Gallinazos to the furthest boundaries of Mocambo?

A. Yes, and the source of the Cardenas,—being one and the same.

286 Q. Then is this Mata Redonda (indicating) within the boundaries described by those deeds?

A. Certainly; the headwaters of the Platanar Creek come here, and Gallinazos Hill is here, marked, and it states at the very start that the boundary is starting at the Mata Redonda; it shows there are two imaginary lines left. (Indicating same on plaintiffs' Exhibit "2.")

Q. But the line from this point (indicating) according to your statement, and here (indicating) has never been closed up?

A. Not in that deed, but those lines would not be really necessary if this is the starting point, and it comes in that direction and stops a little ways before it gets there, it is only natural to show that it continues on to that point.

Q. Has there ever been any other place in this vicinity which has been known as Gallinazos Hill?

A. In that judgment, I think, introduced here this morning three Gallinazos Hills are mentioned,—one that is towards La Concepcion, and another one is towards the west of the road to Porto Bello.

Q. Where would that be?

A. Somewhere near Algarrobo Hill.

Q. Then you locate that Gallinazos Hill more from the Lo de Caceres deeds than from your own?

A. Taking all the deeds together.

Q. Ever hear of any other Gallinazos Hill?

A. No; I heard of a Gallinero somewhere in Lo de Caceres.

Q. Ever testify that Gallinazos Hill was near monument 83?

A. I do not believe so; it is somewhere just around here. (Indicating).

Q. Reading at page 293 of the record, and referring to the description given in Exhibit "J" which you have just stated, (reading), "that the lands would be a moving

line to "A-p" on the map; that they were from the Mata Redonda to point "A" to point "J" in a straight line to "P," which moving southwest to south would describe the area; that the Gallinazo Hill might be at the point called monument 83, and from monument 83 to the farthest part of Mocambo; that it would leave this point from Monument 83 to "Y" on the map; that he had not drawn a line from "A" to "P" and then the Palangana, upstream as far as the Platanar and then from the headwaters of the Platanar to the Gallinazo Hill"—

A. I did not say that.

The Court:

But there is the record, and he says it is not so.

Witness:

I said it "might be there."

287 Mr. MacIntyre:

Here are the actual notes taken down by the stenographer at the time: (Reading) "A. That hill may be about here, indicating point near Monument 83; from Monument 83 to the farthest part of Macambo. That then, would leave this point from Monument 83 to "Y." Q. The line you have drawn then is from point "A" to point "P," then down stream of the Cardenas River to the Palangana; then the Palangana, upstream as far as the Platanar, and its headwaters, and then from the headwaters of the Platanar to the Gallanazo Hill? A. No; I have not done that; then this point is open; "and from a hill," that is right here at Monument 83; a line to the end of Mocambo, to the farthest side of the boundary of Mocambo. And that leaves it without closing the boundary; it lacks a line from Gallanazo Hill to Mata Redonda; and lacks another line from the Mata Redonda to the headwaters of the Platanar. That is the whole deed."

The Court:
The record shows you did not say it.

Judge Fairman:
Let me see that record myself.

Mr. MacIntyre:
(Handing stenographic transcipt to counsel for plaintiffs) That is the trouble with that narrative form.

The Court:
Yes; I would not sign a bill of exceptions unless it was compared by the Court stenographer.

Judge Fairman:
I will read you the question: (Reading) "And on the upper part, from a hill known as Gallanazo as far as Mocambo?" and your answer: "That hill may be about here, indicating point near Monument 83; from Monument 83 to the farthest part of Mocambo. That then, would leave this point from Monument 83 to "Y"."

A. Yes, sir, that means it would leave it inside the line.

Q. You said that?

A. Yes, sir, I said that that leaves this point, "83" inside the line,—as you will see here. (Indicating).

Q. That all the lands within the Canal Zone in this particular triangle, wherein the spot marked Monument "F" is the apex, and the red line from your place called Pena Hueca or Mata Redonda, to a point between Monuments 86 and 87, is part of the estate of Lo de Caceres?

A. According to the descriptions in the deeds it is; according to our possession with that fence,—which we took to be the same straight line,—there is part, not only to the east of that line, but to the west of that line, with-

in the estate of Lo de Caceres, and a portion to the east in the estate of Mata Redonda.

Q. This particular part is absolutely prop-
288 erty of the old estate of Lo de Caceres?

A. Except if you take the deed there is a line from the place marked "Old Gate" to the spot marked "Mata Redonda,"—that is the red line,—and leaves a space which according to the deeds belongs to me, according to our possession and fence would be on the outside; the same thing, but turned around, is true about the portion marked "Old Gate" to somewhere between monuments 86 and 87; and again the same thing is against the estate of Mata Redonda a little to the north, and leaves also a place outside the fence. (Indicating on Exhibit "2.")

Q. But, you do not in your answer claim any part or portion—

Mr. MacIntyre:

The Answer speaks for itself,—that only takes up time.

Judge Fairman:

(Continuing): —east of this red line?

A. I believe my Answer calls for adverse possession under my fence.

Q. Do you claim any of the lands that lie between Gallinazos Hill and the point called Pena Hueca or Mata Redonda?

A. I stated this morning I have no claim whatever on the line coming from Mata Redonda to a Gallinazos Hill, and then coming west to meet my boundary line; but I believe that land belongs yet to Mr. Rivera, who divided the estate.

Q. You do claim in subsequent conveyances here? (Indicating).

A. Yes, sir, as far as possession is concerned under the old deeds because they include not only what I claim under Rivera, but also the other portions which are included, and gives me possession by the old deeds.

Q. But you have never asserted any claim of ownership over this? (Indicating)

A. No.

Q. But you have asserted claim of ownership over this property here? (Indicating)

A. I have.

Q. The Lo de Caceres,—you are acquainted with them as contained in the former case?

A. Yes, sir.

Q. This property is within that indicated by these old deeds?

A. Yes; more than half of Mata Redonda is within that, too; there is one deed that states the whole of Mata Redonda is included in that boundary line,—that is the deed of 1755.

Q. Now, Mr. Patterson, referring to pages 294, 295, and 296 of the transcript of record of this case, wherein it is entitled "Guillermo Patterson vs. Domingo Diaz A., et al., Slander of Title"—is that the petition filed by you in the Courts of Panama establishing your rights in the property of Mata Redonda as against the claim of Mr. Domingo Diaz?

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A. No, sir.

Q. What is it?

A. It is a petition filed by my father.

Q. That was filed November 6, 1977?

A. I do not remember the date; if that is the date it says, it is all right.

Q. So it says here.

A. That is all right.

Q. That is some seventeen days prior to the time that Mr. Diaz filed his petition in this Court in the former case, November 23rd?

A. If that is what you say.

Q. And this suit of your father's was filed according to this record November 6, 1917?

A. Yes.

Q. State, if you know, what your father sought to do in that action?

Mr. MacIntyre:

I believe that is entirely immaterial.

The Court:

The pleadings show; but let him state.

Witness:

Mr. Diaz brought suit for ejectment against my father before the Alcalde, which is not the regular procedure, but is often done by those who are friends of the Alcalde or have influence, and the Alcalde granted his petition in a very irregular manner, and I had to go all the way to the President of the Republic in order to have the Alcalde do what was right; and my father got a copy of that petition and proved slander of title, and compelled him to institute suit in the Republic of Panama for land in the Republic.

Judge Fairman:

Did't you state in your examination here—you testified in regard to this document contained on the pages of the record heretofore stated, and mentioned herein as plaintiff's Exhibit No. 21, that you did not prepare that complaint entirely as you had an attorney to help you?

A. Yes, sir; that was my father's suit, and I had an attorney help us, but he prepared it, and I was present when the attorney was in the house.

Q. In this you have described the estate of Mata Redonda in its entirety?

A. Yes, sir; and I have followed the boundaries on this map (indicating plaintiffs' Exhibit "2"), and with you, and showed you that they are exactly as given.

Q. Did you continue with the prosecution of that case after Mr. Diez started his case here?

290 A. Well, I do not remember the date; I know the case was finished and Mr. Diaz was compelled to file his suits, but he did not file the right one and was condemned on that account; and then,—for some unknown reason,—the judgment was reversed.

Q. You brought the suit to compel Mr. Diaz to bring suit?

A. That is all.

Q. And pursuant to that petition Mr. Diaz brought suit?

A. Yes,—four or five, and also filed suit here.

Q. He brought suit pursuant to this particular petition?

A. They were purported to be; some of them were thrown out.

Q. Didn't one of these suits, pursuant to those petitions, finally reach determination of the Supreme Court of the Republic of Panama?

A. I don't know what that has to do with this, but I suppose there was a suit finally adjudged.

Q. It was in relation to the lands you have described in this petition?

A. No, sir.

Mr. MacIntyre:

I am going to object to any evidence as to the Supreme Court of Panama about any of the lands outside the Canal Zone.

The Court:

(To Counsel for Plaintiffs): That cannot help me a particle; you are wasting time; I would suggest you do not go any further with that sort of testimony,—get down to something that will help me out; this cross-examination is cinching the case for them every time you ask him a question; he has been swearing against you every question you ask.

Judge Fairman:

I am willing to have him swear against me.

The Court:

Yes, but what's the use, unless you can contradict or impeach him.

Judge Fairman:

I cannot contradict or impeach him until he gets through with his testimony.

The Court:

I never saw a greater drawn out cross-examination in my life.

Judge Fairman:

I wish to know what is the result of that law suit in Panama?

Mr. MacIntyre:

To which we object.

The Court:

Objection sustained, and exception noted.

Judge Fairman:

The plaintiff offers to prove by this witness that the Supreme Court of Panama rendered a final decree where-

in all the lands claimed by them as the estate
291 of Mata Redonda without the Canal Zone, or in conflict with the estate of Lo de Caceres were adjudicated to the heirs of General Domingo Diaz against the claim and demand of the defendant, Guillermo Patterson. That finishes my cross-examination.

Re-Direct Examination.

By Mr. MacIntyre:

Q. Mr. Patterson, I forgot to ask you before, will you kindly indicate on this map (Exhibit "2") by writing the letter "X" at the point where His Honor, and Attorney Fairman, Mr. Diaz, yourself, and myself, and one or two others were standing looking in a straight easterly direction to the Mata Redonda after following up the creek with the rocky bed; will you kindly indicate where you drew out a compass and showed where the Mata Redonda was due east and in plain sight?

A. That was a little east of the headwaters of the Platanar Creek; I shall make an "X" there where I believe it was, and that "X" now lies between the headwaters of the Platanar Creek marked with a white "X" and the Mata Redonda. I think that is the place where the compass was taken out and shown that the line of Mata Redonda was in that direction.

Q. Mr. Patterson, you have stated that the place where a stone monument bearing on one side "Rio Hondo" and the other "San Jose,"—that it was placed at a spot very near the Paso Real Antiguo; is it not a fact that one side of that monument facing the Rio Hondo bears the words "Rio Hondo," and the other side facing the quebrada, the words "San Jose"?

A. Just now it does not, but from statements and repute that I had that stone monument said on the Rio

Hondo side "Rio Hondo," and on the San Jose side, "San Jose."

Q. It still says "Rio Hondo" on the Rio Hondo side?

A. Yes, sir.

Q. But where it said "San Jose" it was defaced?

A. Yes,—by somebody who did not want that to be called San Jose.

Q. Plaintiffs have introduced provisionally, subject to bearing properly connected up, a reported sale by Mrs. Lewis de Paredes to herself by means of a Judge in the year 1895; in that year were the Courts of Panama open to litigants?

A. No, sir; there was a Revolution going on in that year, and at that time, as at all other times when a Revolution was going on, no litigation could be had.

Q. At the time when Mrs. Catalina Lewis de
292 Garcia de Paredes attempted to sell those lands did your father or any other adjoining land owners try to do anything to stop that sale?

A. I believe that all the adjoining property owners protested that sale and tried to—

Judge Fairman:

(Interrupting): I object to belief.

Witness:

(Continuing): I know positively at least my father and Mr. Carlos Ycaza Arosemena opposed that sale.

Mr. MacIntyre:

What did Mr. Carlos Ycaza Arosemena do?

A. He published a notice in the paper along side the notice for the sale of Lo de Caceres.

Q. Was that notice testified to in the former trial in this case?

A. It was, in the former trial of this case, by his own son Eduardo Icaza, who was at that time a witness for the plaintiffs, and testified as to defendant's Exhibit "C."

Q. What did your father do?

A. My father sent a petition, or rather a writ of opposition to the sale, to the Judge; and that petition was given back to him, and he was told no litigation could be had, and therefore could not accept his petition.

Q. And by that means your father was prevented from legally opposing the attempted sale made by Mrs. Paredes?

A. Yes, sir.

Q. I will ask you what is that,—Exhibit "3"?

A. That is the same objection which my father sent to the Judge at that time,—the Judge who was making the sale.

Judge Fairman:

I may state when I announced the finish of my cross-examination I wished to reserve the right to further examination; I just found a page in my notes I overlooked,—but, it is a matter of record in the old case. (Examining Exhibit "3"). We object to this on the grounds that the document on its face merely shows that it was written; it does not show that it was ever presented to any judge; and we object—

The Court:

(Interrupting): He swears it was presented and the Judge refused to accept it because of an executive decree closing the Courts during the Revolution.

(At this point the Official Translator reads the translation of the document in question to the Court.)

Mr. MacIntyre:

I offer that in evidence as otoptic proference;—that very paper which Mr. Patterson tried to file in
293 Court to that sale.

Judge Fairman:

We object to it.

The Court:

It is admitted in evidence in—

Judge Fairman:

(Interrupting): But I object. (To witness): There was a Revolution here in 1894?

A. No, this Revolution lasted six or eight months; it started around March of 1895.

Q. And lasted six or eight months?

A. Yes, sir; that is all.

Q. Was there any disturbance in the city of Panama?

A. Not in the city of Panama,—but on the Isthmus.

Q. Where then?

A. In Bocas del Toro.

Q. About two hundred miles away?

A. Yes; but there was a decree forbidding all litigation, there is testimony to that effect given by the plaintiff himself.

Q. How do you account for the fact that this sale took place?

A. I said litigations.

Q. Litigations?

A. Well, that shows what some people can do, that is all.

Q. Was there anything to prevent your father from presenting this petition after that ban had been removed?

A. No, but he never paid any attention to that, and he did not object to the sale, and never thought that could bind him.

Q. It was a matter of indifference to him whether the Judge acted on this or not?

A. No, he wanted the Judge to act on it, and wanted it to be of record.

Q. You stated the Judge refused to accept it?

A. Yes, it was returned immediately.

Q. Were you with him when it was done?

A. No.

Q. How do you know then that it was done?

A. I saw him write it and come back with it.

Q. See him present it to the Judge?

A. No.

Q. Know whether he ever presented it to the Judge?

A. I know he went in for that purpose.

Q. Then you do not know what he did do?

A. Yes, I do.

Q. We object to the instrument.

294 The Court:

Objection overruled.

Judge Fairman:

Exception.

Mr. MacIntyre:

(Continuing): At the time this instrument was drawn and when this alleged sale was going on was your father in possession of the lands of Mata Redonda now in dispute?

A. Yes, sir.

Q. Was his fence where it is to-day?

A. Exactly the same place.

Q. Was he exercising rights of possession over that property?

A. Yes, sir; all the property within his fence.

Q. Was he in possession as a 'squatter' or under recorded title?

A. Recorded title.

Q. How far back in an unbroken chain had that record title been recorded?

A. As far as we have seen, it goes back to 1695.

Q. How long back was it recorded in an annals of the Republic of Columbia and New Grenada?

A. Up to the year 1841.

Q. From 1841 until the time your father was there?

A. Yes, sir.

Q. The record title was unbroken?

A. Yes sir.

Q. Did your father exercise open rights of possession, occupancy, and user of every bit of this land which is now in controversy?

A. Yes, sir; the principal act of possession over that land was having it fenced, according to Article 981 of the Civil Code of the Canal Zone.

Q. And your father did have the land under fence as far as the division between that land and Lo de Caceres was concerned?

A. Yes, sir.

Q. After the judicial sale made by Mrs. Paredes to herself, did Mrs. Paredes or anyone from whom she claimed ever have possession of, or attempt to take possession of any of the lands held by your father to the west of the fence along the Porto Bello trail?

A. No, sir.

Q. Did anyone up to the year 1917 ever attempt to deprive your father of any of the lands held by him under recorded title since 1841?

A. Mr. Aleman tried to get part of the place marked "Potrero 4.8" by buying the improvements on it and claimed he bought the land; he also threw a fence through the Mata Redonda.

Q. What became of the attempt of Mr. Aleman to get "Protrero 4.8"?

A. He failed. We had a man named Reid living there at "4.8," and he paid rent to us.

Q. He paid rent to your father?

295 A. Yes, sir.

Q. One more question. We had some discussion about the location of Gallinazos Hill; did the judgment of 1841,—our Exhibit "A-3" (e)—locate that hill?

A. It did; it states that Gallinazos Hill is right near Sonsonate Hill; it is southeast of the Sonsonate Hill,—marked "G."

Q. That is in the judgment of 1841, it is said to be near what?

A. Near here (indicating); southeast of Sonsonate Hill.

Q. That is all.

Re-Cross Examination.

By Judge Fairman:

Q. Mr. Patterson, referring to the record in this former trial, pages 327 to 330, inclusive, wherein it appears, first, a proposition proposing amicable arrangement for the delimitation of Lo de Caceres and Mata Redonda between your father and Mr. Diaz; and second, where they appoint Mr. A. B. de Obarrio, Mr. Juan Brin, and Dr. Ciro L. Urriola, arbitrators and umpire, and the three points to be decided by the arbitrators;—the facts stated in those pages in the former record are true and correct, are they?

A. (Examining same): That is correct as far as my knowledge goes; yes, but Mr. Diaz did not abide by this agreement..

Q. We wish to offer in evidence as part of plaintiffs' testimony—

Mr. MacIntyre:

To which we object as incompetent, and move it be stricken from the record because it is evidence of an attempt to compromise by the parties before suit was brought, which compromise was not made.

The Court:

I think the objection is well taken.

Judge Fairman:

Mr. Patterson testified to the fact that nobody ever attempted to disturb their possession.

The Court:

The rule is so well established, that no attempt to compromise can be introduced in evidence; the policy of the law is that everybody should compromise their trouble, and therefore we prevent them from bringing in any compromise.

Judge Fairman:

When an agreement to compromise goes to the question in dispute—

The Court:

Well, ask him if anybody ever disputed his title; that is very important in this case.

296 Judge Fairman:

I think so.

The Court:

Yes.

Judge Fairman:

(Continuing): You state nobody ever attempted to dispute your possession in the Paredes family?

A. No.

Q. Who first disputed your rights of possession there?

A. I stated in 1899 Mr. Aleman tried to run a fence there, and he for the first time spoke about some place somewhere else which he wanted to call "Pena Hueca"—that is the first notice we had; after that, we had no further trouble with him. In 1912 Mr. Diaz asserted to my father he had bought the land of Lo de Caceres, and wanted him to settle a dispute or something,—that was in 1912,—and of course, he wanted to get together and find out what it was, and Mr. Diaz made a compromise with my father that he would never go before any Court of any kind for this litigation with my father, and signed his name to that compromise and gave his word of honor; but he took it lightly and filed before the Mayor of the city a suit for ejectment.

Q. When was that filed?

A. In 1917.

Q. Five years later, or in 1912, you both attempted to effect an amicable settlement?

A. There was no attempt. It was only a promise that if there was any dispute it would be settled outside the Courts,—that was in 1912,—that is all that was agreed on.

Q. You did not agree on arbitrators?

A. No.

Q. You did agree on arbitrators in 1915?

A. Yes, we got together several times, and of course we saw very clearly Mr. Diaz did not have any right, and were willing to have him have the best of our land because we did not have money for any law suit at that time.

Q. That agreement of 1915 was pursuant to the agreement of 1912?

A. That agreement of 1912 was broken and Mr. Diaz also broke the one written by Mr. Bruno, who was Mr. Diaz, attorney, and another one by Mr. Harmodio Arias, who was my attorney and then turned around to be Mr. Diaz' attorney.

Q. When there first became a question about the boundary, was there not some agreement entered into as to the collection of rents?

A. No.

Q. There was no agreement that both parties would leave matters in status quo until you would settle your differences?

A. No.

Q. In 1915 you entered into this agreement
297 for arbitration?

A. Yes.

Q. And the arbitrators finally made an award?

A. Yes, sir; a very unreasonable award, and away out of their power,—that is, they went beyond the agreement.

Q. And you refused to abide by the award?

A. No, I said the award was entirely out of the jurisdiction of the arbitrators, and was not given according to law because only one of the arbitrators handed down a decision when the three of them should have done so, but even so, I was willing to abide by it, and willing to give Mr. Diaz the money that the arbitrators had fixed, but Mr. Diaz refused to take the money, he wanted the land. According to that agreement there were two hundred and twenty-five hectares which Mr. Diaz was supposed to claim, and the arbitrators gave him seven hundred and fifty hectares in land, so we offered to pay him in money at the rate of ten dollars a hectare.

Q. Was that the price fixed by the arbitrator?
A. Yes, and we were willing to give him that.
Q. What did Mr. Diaz do?
A. He refused.
Q. He offered a reverse proposition to you?
A. Yes, he wanted that land because the Canal Zone was about to pay for—
Q. (Interrupting): He offered you the same thing?
A. No, he wanted the land, because that land was wanted by the Canal Zone Government.
Q. Who was the umpire?
A. Ciro Urriola.
Q. Who was he at that time?
A. A doctor.
Q. Have any official position with the Government?
A. I do not know.
Q. Didn't you know he was First Designate?
A. I do not know about that, I am not in politics.
Q. That is all.

Mr. MacIntyre:
That is all.

(Witness is excused).

ALEXANDER JOSEPH CHAVALIER, is the next witness called by the defendant, and being duly sworn, testified as follows:

Direct Examination.

By Mr. MacIntyre:
Q. What is your name?
A. Alexander Joseph Chavalier.

Q. What is your business?

298 A. Official municipal interpreter for the Mayor's Office, and Police Courts.

Q. How long have you been Official Interpreter?

A. For two years.

Q. That is in the Republic of Panama?

A. City of Panama, Republic of Panama.

Q. How much education have you had in the Spanish language?

A. A very good education.

Q. What schools have you attended?

A. I left here when I was about twenty years of age, for England, and studied in Liverpool and in New York.

Q. For how many years have you been interpreter?

A. Two years.

Q. Have you also acted as translator?

A. Yes, sir; and I have translated some in this Court before.

Q. Have you ever had any experience in translating Spanish documents running as far back as 1725 or 1750?

A. I have never done any old documents like that.

Q. Showing you plaintiffs' Exhibit "A" at page 6 thereof, I will ask you what is the English translation starting from the words: "hasta una quebrada que esta a los adrederores de Pan de Azucar, y desde dicha quebrada tirando linea recta hasta matasnillo, y siguiendo la dicha linea recta, hasta donde hace frente a la cabecera de una quebradita que desagua a la antigua cuidad, y desde le cabecera de dicha quebradita siguiendo linea recta para arriba al cerro de Sonsonate y el de gallinazo, y desde alli hasta Mocambo (sic) quebaja le misma linea hasta le caberera de rio Hondo quedando dentro le quebrada que llaman de castaneda.".

A. To a creek, or brook, which is around Pan de Azucar,—in the vicinity of Pan de Azucar,—and from said brook in a straight line to Matasnillo, and following said straight line up to in front—before—the source —or headwaters—of a small brook which empties itself at the Old City, and from the source of said small brook following a straight line up to the hill of Sonsonate and that of Gallinazo, and from there, it says, to Macambo (sic)—

Judge Fairman:

(Interrupting): What does "sic" mean?

A. A mistake in grammar.

Q. Preceeding, or following?

A. Following the word Mocambo.

Witness:

(Continuing): And from there to Mocambo(sic), that goes down the same line to the headwaters
299 of the Rio Hondo, taking the brook—or creek —called Castaneda.

Mr. MacIntyre:

What does "quebaja la misma linea", to what does the pronoun "que" relate?

A. "Que" would mean "that" or "which".

Q. To what does it relate?

A. To the same line that goes—the straight line that goes to Gallinazos and Sonsonate.

Q. "Que" refers back to that line?

A. Yes.

Q. What do the words "la misma linea" mean?

A. The same line.

Q. Will you point out the noun in that sentence to which that word "que" relates?

A. It would be to the "line".
Q. That is all from this witness.

Cross-Examination.

By Judge Fairman:
Q. The word "sic" preceeding that particular phrase indicates that it is erroneous?
A. Yes, sir.
Q. And that it is not the proper way in which the particular thing should have been expressed?
A. Either that, or perhaps the word "Mocambo", or in phrasing of that sentence,—the grammatical phrasing of that sentence.

(At this state of the proceedings a recess is taken from 5:00 p. m., until 7:00 p. m., at which time the taking of testimony is resumed, as follows).

JOSE PABLO MEDRANO, is the next witness called by the defendant, and being first duly sworn, according to law, testified as follows through the Official Interpreter in Spanish:

Direct Examination.

By Mr. MacIntyre:
Q. State your name?
A. Jose Pablo Medrano.
Q. What is your age?
A. Forty-eight years.
Q. Where were you born, Mr. Medrano?
A. In Panama.

Q. Do you know the defendant in this case,
300 Don Guillermo Patterson?

A. Yes, sir; I know him.

Q. Do you know the plaintiff, Senor Domingo Diaz?

A. Yes, also.

Q. Do you know the lands in controversy in this case,—the portions of the land of Mata Redonda?

A. Yes, sir.

Q. For how many years have you known the lands of Mata Redonda, and how did you become acquainted with them?

A. I went there the first time in 1888 with Mr. Guillermo Patterson; I was then something like eight years of age.

Q. How long did you remain on that place after that time?

A. Since that time, up to now, I have not been away from here for over a period of more than three months at a time.

Q. Mr. Medrano, do you know the old Porto Bello trail?

A. Yes, sir.

Q. Do you know the present Porto Bello trail?

A. Yes, also.

Q. Do you know the estate of Lo de Caceres?

A. Yes, I know it.

Q. Where is the Porto Bello trail with reference to the estates of Mata Redonda and Lo de Caceres?

A. All the time I knew it, it was the dividing line between Mata Redonda and Lo de Caceres.

Q. Since the time which you have known those estates, Mr. Medrano, has Don Guillermo Patterson been in actual possession and exercising rights of possession and ownership over the land of Mata Redonda all the way up to the Porto Bello trail?

A Always.

Q. How far back in the lands of Mata Redonda did Mr. Patterson exercise acts of possession?

A. In the whole portion covering his boundaries; I was the person commissioned to collect the rents.

Q. Did Mr. Guillermo Patterson have any tenants who paid rents in the vicinity of the Algarrobo Hill?

A. About fifteen.

Q. And in the vicinity of Mocambo and towards the headwaters of the Rio Cardenas, did Mr. Guillermo Patterson have any tenants who were paying rents?

A. All of them there paid rents.

Q. Along the Porto Bello trail, from Mr. Patterson's gate near his house, up to the Algarrobo Hill, were there any tenants along that trail who were paying rents to Mr. Patterson?

A. All within the fence line there paid rents.

301 Q. Mr. Medrano, you are a great hunter?

A. Yes, very much.

Q. Have you been over practically the entire estate of Mata Redonda, every part of it?

A. Yes,—day and night—hunting.

Q. Do you know all of the streams in Mata Redonda and its vicinity?

A. Yes, I know them very well.

Q. Mr. Medrano, in some of the deeds which have been produced in evidence, there is mentioned the junction of the River Palangana with a "stream with a rocky bed",—lajosa,—do you know any stream that answers that description?

A. Yes, it is the Platanar.

Q. How many streams are there in the lands of Mata Redonda, or adjacent properties that are "lajosa",—that is, with rocky beds?

A. There are some that resemble that, but there are none so clear as that one.

Q. Mr. Medrano, were you present with the Court, the parties to this litigation, and the attorneys, at the ocular inspection had of the properties of Mata Redonda Tuesday of this present week?

A. Yes, sir.

Q. At that inspection there was pointed out to the Court a quebrada a little distance east of the ruins of the old chapel and at the terminus of an old stone fence, which Mr. Diaz claims is the Quebrada Platanar, —do you know that quebrada?

A. That is not a stream,—that was only recently formed.

Q. Was that ditch, stream, or quebrada there when you first knew the property?

A. It was hardly noticeable.

Q. At that same inspection the Court with the attorneys followed up another stream which Mr. Patterson claimed was the Quebrada Platanar,—do you know that stream?

A. That is the real Platanar.

Q. How long have you known that stream as the Platanar?

A. Ever since the time I went there.

Q. How do all of the people who live in that vicinity call that latter stream which you followed up?

A. Always called that the Platanar.

Q. On that inspection, the Judge and the attorneys paused on a small hill, and Mr. Patterson produced a compass and showed the Judge that the Mata Redonda, as he claimed it, was visible in a straight easterly line from that spot,—do you remember that locality?

A. Yes,—that is the Mata Redonda.

Q. Do you remember the place at the headwaters of what you call the Platanar Creek, where the ocular inspection party paused to look at,—do you re-
302 member that?

A. Yes, I do, that is the headwater of the Platanar.

Q. At or near that locality, Mr. Medrano, did you ever see a small stone monument, similar to the monument at Rincon Escondido?

A. Yes, sir.

Q. Is that still there?

A. Yes, it is still there.

Q. Do you know by whom it was placed?

A. No.

Q. Then there was at one time, or there still should be, a stone marking the headwaters of the Platanar the same as there is marking the headwaters of the Rio Hondo?

A. Yes, I saw it there.

Q. Mr. Medrano, when you first knew the Hacienda of Mata Redonda, was there any fence along the Porto Bello trail on the Mata Redonda side?

A. Yes.

Q. Who built that fence, if you know?

A. I do not know; when I went there it was already built.

Q. Did you ever do any work on that fence after you went there?

A. I repaired that fence in 1907 or 1908.

Q. Do you know from your personal knowledge from where to where that fence runs?

A. It commences at the gate of Mata Redonda; it runs along the entire trail, and it ends at Tesorera Creek.

Q. Where is the Tesorera?

A. It is in Lucha Franco,—the limit of Mata Redonda and Lucha Franco.

Q. Do you know the house, Mr. Medrano, that Don Guillermo Patterson built in Mata Redonda?

A. Yes, I know it.

Q. Did you ever live in that house?

A. Many times.

Q. Do you know the old brick or tile oven near that house?

A. Yes, near it.

Q. Was that oven there when you first knew the place?

A. Yes, sir.

Q. Do you know from common repute who built that oven?

A. I heard that one Mr. Noriega built it.

Q. Mr. Medrano, did Don Guillermo Patterson have any pasture land inside of Mata Redonda?

A. Yes.

Q. When Guillermo Patterson first went there in 1888, he went there as agent for Jose Gabriel Duque, did he not?

A. Yes.

Q. Did Mr. Duque have any pasture lands in Mata Redonda?

A. Yes.

Q. Do you know in a general way the location of a hill called Mocambo?

A. Yes, I know it.

Q. Drawing a straight line from the hill called Mocambo to the Mata Redonda,—did Don
303 Guillermo Patterson have any pastures or meadows, houses, or buildings to the east of that line?

A. Yes.

Q. Do you know a spot in Mata Redonda locally known as Potrero Grande?

A. Yes, I know it.

Q. Who planted that potrero?

A. When we went there that pasture was already made.

Q. Was that pasture in the possession of Mr. Duque?

A. Yes, sir.

Q. Did Don Guillermo Patterson use that potrero?

A. Yes, all the time until the Canal Zone authorities made him get out.

Q. Mr. Medrano, since 1888, when you first went to Mata Redonda, was Mr. Diaz ever in possession of any part of that land?

A. No, not in possession of that; only in the surrounding land.

Q. Were any of the Paredes family ever in possession of any of the lands to the west of the Porto Bello trail since you know?

A. Never.

Q. From the time in which you knew Mata Redonda, until the present, who has been in possession of the lands lying between the old fence which you have mentioned along the Porto Bello trail and the Rio Cardenas, back as far as the Hills Algarrobo, and down to Mocambo?

A. Patterson.

Q. Mr. Medrano, do you know the place called Pena Hueca?

A. Yes.

Q. Where is that?

A. In the Mata Redonda.

Q. Is that any where near the gate that used to lead into Mr. Patterson's property

A. At the very edge of that fence.

Q. Anywhere near Mr. Patterson's house?

A. Opposite the house.

Q. How long have you known that place to be "la pena hueca"?

A. Since I have been there they called it Mata Redonda or Pena Hueca.

Q. Mr. Medrano, when you first went there, what kind of trees were growing in the place they now call Mata Redonda?

A. Very large trees,—thick,—robust.

Q. How was the surrounding country?

A. All surrounded with these sabanas, with the round bush.

Q. At that time when you knew the place and when it was under cultivation, was the whole place grown up in bush as high as a man's head as it is now?

A. There were very small ones then.

Q. What became of those big trees that used to exist in the spot called "la Mata Redonda"?

304 A. In 1899 Don Adolfo Aleman felled those trees.

Q. How do you know that?

A. I saw it done.

Q. Mr. Medrano, is there a large flat rock somewhere near the ruins of the old chapel with water standing in some holes?

A. To-day there is; but in 1888 when we went there that rock only had a small portion uncovered.

Q. Can you indicate in this room about how large a portion of that rock was showing in '88 when you first knew the place?

A. From that railing to here. (Indicating twelve to fourteen feet).

Q. Mr. Medrano, did you ever with your own eyes see anybody clearing the dirt off the top of that stone so that it would be a bigger stone?

A. Yes, I have seen it.

Q. When did you see it?

A. Well, about December, 1917, I am not positive either 1917 or 1918,—I am not sure about the time.

Q. Who did you see clearing off that rock to make it a big rock?

A. I went there one morning and found three men working there.

Q. What were they working with?

A. Chisels, and hammers, and hoes.

Q. What did you do when you saw these men working there, did you speak to them?

A. I asked them by whose orders they were doing that, and they told me by the orders of Mr. Diaz.

Q. Did you know any of those men?

A. Yes.

Q. Will you name them?

A. Angel de Gracies, Emanuel Carrera, and Enrique Carrera.

Q. What was the next thing you did when you saw these men working on that rock?

A. I came to Panama and looked up Mr. Patterson and told him what was going on; then he told me to get two men and swear them as witnesses, and take them there and ask the men in the presence of the witnesses by whose orders they were doing that.

Q. Did you do so?

A. Yes, I got two friends, and went there in an automobile, and went where these men were and asked them, and they told me in the presence of the witnesses 'by order of Mr. Diaz'.

Q. Who were the two men you took as witnesses?

A. One is Pablo Rangel, and the other is Francisco Berrocal.

Q. Ever hear that rock called "la pena hueca",—that rock by the Chapel?

A. No.

Q. Mr. Medrano, you do not speak much English, if any?

303 A. Very little.

Q. Spanish is your native language?

A. Yes, sir.

Q. And you have been brought up right in the vicinity of the sabanas?

A. Yes, sir.

Q. Now, Mr. Medrano, around Panama City and in the vicinity of the sabanas, what word do people use to designate a flat rock which just merely comes up to the face of the earth and does not protrude,—what word is used in this local idiom?

A. Laja.

Q. What do you mean when you use the word "pena"?

A. Pena is the word that is understood to mean a rock that comes out of the surface,—that extends out of the surface.

Q. Does that word "laja" and "pena" mean exactly the same thing in Spanish?

A. No, they are very different.

Q. What does the word "hueca" mean when used as an adjective?

A. One hole; a hole.

Q. Would you call the seat of this chair "silla hueca" because it has perforations in it?

A. No,—huecas.

Q. Would the chair be called "una silla hueca"?

A. No, that would be called "a chair with 'huecas".

Q. And a rock, such as extends up near the ruins of the old chapel with a few holes in it, would that be called locally "una pena hueca"?

A. No; if it only had one hole it could be called "pena hueca", but as it has several holes it would be called "pena con huecas",—a rock with holes.

Q. Mr. Medrano, is there a hole underneath the rock called by Mr. Patterson "la pena hueca" in the place called "La Mata Redonda"?

A. Yes, there is a rock on top of one other that forms a concavity.

Q. Did that hole used to be larger than it is now, when you first knew it?

A. No, just the same as it is now.

Q. Mr. Medrano, did the road to the old ruins,—the old chapel,—since you have known it always come the same way as it does now and cross the Bano Bello at the same place?

A. No, sir, that is the new crossing.

Q. How long has that present road been in use?

A. Since 1899; when Adolfo Aleman closed the old road.

Q. Where did the old road cross the Rio Hondo?

A. At that monument,—the boundary between San Jose and Mata Redonda.

Q. At the place where the rock goes across
306 the river?

A. Yes, sir.

Q. Do you know the Ariaza family?

A. Yes, I know them all.

Q. Do you know one called Liborio?

A. Yes.

Q. Liborio Ariza testified in the former hearing of this suit that he lived in Mata Redonda and paid rent to Mr. Diaz, do you know where he lived?

A. Yes, sir; he lived on the lands of Lo de Caceres, very far distant from the fence of Mata Redonda, but he had a cultivation in Mata Redonda, and he paid a good many rents to me for his cultivation.

Q. In the came hearing Mr. Ramon Garcia de Paredes testified that Felipe Fernandez, Jose Diaz and Blasco Garibaldi all paid rent to Lo de Caceres' owners, although their lands were in Mata Redonda,—do you know where these people lived?

Judge Fairman:

Did he testify to that?

Mr. MacIntyre:

On page 180 of the record Mr. Ramon Garcia de Paredes said: "that the persons who squatted on the property claimed that they had permission from Mr. Patterson and Mr. Patterson stated that they had to get permission from him to do so; that they stated then that they had permission from his family; that some squatters were there without permission from anybody; that he had a man in charge who collected rent and that the people paid in vegetables to his mother; that some of them paid rent in that manner". On page 183, he said: "That Blas Garibaldi was one of the persons who paid rent to his mother for the property and another man in the Court room with a blue shirt named Felipe Fernandez and another little man called Jose Diaz."

Judge Fairman:

Quote the witness properly.

Mr. MacIntyre:

Let's cross off that question. (To witness): Mr. Ramon Garcia de Paredes claims in the testimony given

orally in this Court in May, 1918, that Blas Garibaldi, Felipe Fernandez, and Jose Diaz paid rent to his mother for the grounds on which they lived,—where did they live?

A. They lived a hundred and fifty to two hundred meters from the house of Mrs. Catalina Lewis de Paredes.

Q. Did they live inside the lands claimed by Mr. Patterson as Mata Redonda?

A. They lived near the house of Mrs. Catalina Lewis de Paredes on the lands of Mrs. Paredes, but had their cultivations on the lands of Mata Redonda; I do not know whether they paid rents to Mrs. Catalina Lewis, but they paid rent to me for Mata Redonda.

307 Q. How about Francisco Jaen?

A. He is in the same condition as all the others around the house of Mrs. Catalina Lewis.

Q. Mr. Juan Navarro, at page 199 of the record, stated in the previous hearing of this case that Alejo Villareal and Concepcion Diaz also paid rent to Mrs. Catalina Garcia de Paredes,—do you know these two men?

A. Yes, I know them.

Q. Do you know where they lived?

A. They lived in the house which is to-day that of Mr. Domingo Diaz, between the house of Mrs. Paredes and Harmodio Arosemena.

Q. Did they live on the property of Mata Redonda?

A. Before that they lived on Mata Redonda, where they had their cultivation; that time they lived in that house and had their cultivation in Mata Redonda,—all of the Villareal family.

Q. To whom did they pay rent for the cultivations they had in Mata Redonda?

A. They did work on the estate, repairing fences or cleaning pasture lands.

Q. They did that in lieu of rent?

A. Yes, instead of money.

Q. For whom did they repair the fences and clear pastures?

A. For Mr. Patterson, the owner of the property.

Q. Take the witness.

Cross-Examination.

By Judge Fairman:

Q. What's the date of your birth?

A. More or less in '73, because my baptismal certificate has not shown up,—it disappeared.

Q. How old were you when you first went on the lands of Mata Redonda?

A. More or less seven or eight years.

Q. Then you first went upon these lands in the year 1881?

A. 1888.

Q. Then you were fifteen years of age when you first went upon the land, were you not?

A. No, eight or nine years old, more or less.

Q. After you first went upon those lands in 1888, you never left those lands for a period of more than three months, I believe you have stated?

A. No, never more than that.

Q. You have stated that you collected rents,—did you collect in cash or something else?

308 A. No, some paid in cash, but the majority of them paid in work.

Q. About how much cash did you collect in each way?

A. During the first years I collected six pesos from each person; up to the present I have been collecting up to fifteen pesos.

Q. I am asking how much cash you collected?

A. There is no fixed sum, because sometimes they paid in cash, and then worked part of it out.

Q. (To interpreter): Ask him if he can tell you how much money he collected in any one year, approximately?

A. No, I cannot state that positively, because sometimes in one year they paid, and then another year they worked it out.

Q. None of the tenants entered into any written contract or lease?

A. Yes, the majority of them.

Q. Had written contracts or leases?

A. Yes,—per year.

Q. Now, you stated that you repaired a fence along the old Porto Bello road in the year 1907 or '08; who employed you to repair that fence?

A. Mr. Patterson.

Q. You testified in the former trial of this case, did you not?

A. Yes, at that time Juan Brin was in charge of the property, and it was by order of Mr. Brin I repaired it, he was manager for Mr. Patterson.

Q. Where was Mr. Patterson?

A. In the United States.

Q. Mr. Patterson, Senior, or Mr. Patterson, Junior?

A. Both of them were absent in the United States.

Q. How long were they absent?

A. More or less two years.

Q. How many years have you known the place indicated as Paso Real?

A. Which one?

Q. How long have you known both of them?

A. In 1888 I first knew one, and in 1899 when Mr. Aleman closed the old trail, they opened the new one.

Q. And since 1899 the new one has been called Paso Real?

A. Paso Real for the pasture lands,—they only go to the pasture lands of Mata Redonda.

Q. (To interpreter): Ask him the question again?

A. I do not know whether they call it Paso Real, I have only known it as the crossing going to the pasture land.

Q. Pasture land of what?

A. Of Mata Redonda.

309 Q. The large trees around this place designated as the Mata Redonda by Mr. Patterson were felled in 1899 by Mr. Aleman, I believe you have stated?

A. Yes, and I can give the names of the men who went there to fell them.

Q. Mr. Patterson offer any objection to that act on the part of Aleman?

A. When Mr. Patterson found it out the thing was already done; at that time they were having another Revolution here in Colombia, and at that time Mr. Aleman was Secretary of the Treasury in Panama, and when Mr. Patterson wished to lodge a complaint all judicial machinery was in suspense.

Q. He ever lodge any complaint thereafter?

A. Yes.

Q. What was the result of it?

A. I do not know.

Q. When you first went there with Mr. Patte son, where did you go to live?

A. There was a house there, up at the chapel ruins, or a little bit below near Mata Redonda was an old tile house—a mahogany frame house with a tile roof.

Q. The first house you went to live in with Mr. Patterson was near the old chapel?

A. Yes, very near it.

Q. How near to it was it?

A. Some two hundred meters.

Q. How long did you live there with Mr. Patterson?

A. I was all the time there with them on the farm, but not in that house with the tile roof; a Jamacian later lived there by the name of Teofilo.

Q. How long did you live with Mr. Patterson in the house near the chapel?

A. A little while after he bought it and we moved below.

Q. How long afterwards?

A. He bought it in '91; it was about two years after he removed.

Q. He moved from the house by the chapel about the year 1893?

A. Yes, more or less.

Q. Then where did you move?

A. They first put up a house at the foot of a hill, and that tile roof house they made into a shed for the cows.

Q. How long did they live in the second house at the foot of the hill?

A. That place was very swampy, and I think they lived there three years.

Q. Then where'd they move?

A. They then put up a house right near that cow shed.

Q. How long did you live in that house?

A. Up to the time the Zone authorities put us out.

Q. You stated in the month of December
310 of 1917 or '18 you saw three men working with chisels in the rock near the old chapel, was that in the year 1917 or the year 1918?

A. I cannot state positively, I did not take the precaution to note down the date.

Q. (To interpreter): Does he know about the time in the month of December it was?

A. No.

Q. Did you take down the names of the men you saw working there at that time?

A. No, that was not necessary because I knew them from childhood.

Q. (To interpreter): But he does not know whether it was in the year 1917 or 1918?

A. No, I cannot state positive as to that.

Q. Now, when you saw these men cutting these holes, had they cut a great many holes in this rock?

A. A great many more than there are now; some are covered over now.

Q. Approximately how many holes—"huecos"—had they cut in that rock?

A. I did not stop to count them.

Q. In your opinion was there more than fifty?

A. No.

Q. Twenty-five?

A. No, some eight or ten.

Q. (To interpreter): After he saw them there, he goes back to town and reports to Mr. Patterson, and then takes two witnesses to go back and asked this question which he testified to; did this witness see these men cutting these holes—"huecos"—in the rocks?

A. They witnessed the act; yes; that was not the first day, they were working there another day.

Q. (To Interpreter): Did he see them another day?

A. I saw them there the next morning at 9:00 o'clock, and they done a good deal of work for the time they were there.

Q. Was it in the morning or afternoon when you first saw them cutting these holes?

A. In the morning; it was about 9:00 o'clock in the morning.

Q. About what time?

A. About 9:00 o'clock in the morning.

Q. How long did you stay there?

A. I went away immediately and went to Panama, and got two witnesses and got back at 2:00 o'clock.

Q. How long did you stay there the second time?

A. About ten minutes time with them.

Q. Who was in charge of the property at that time?

A. At that time the Zone had it.

Q. Now, you testified as to the meaning
311 of "pena hueca", I will ask you to state whether "pena hueca" does not mean a rock with a hole in it?

A. Yes, a hole.

Q. Does it mean a rock, or rocks, with a hole under it?

A. I do not understand that; "pena hueca" is one rock with one hole only.

Q. In the rock?

A. In the rock.

Q. And it forms a hole?

A. Yes, if it is oval shape,—in that shape, that is "'hueca".

Q. Whether it is in the rock or not?

A. The first time I said that the "hueca" was formed by one rock on top of the other in the Mata Redonda.

Q. Then "pena hueca" does not mean a rock with a hole in it, it means a rock with a hollow under it?

A. Referring to a "pena hueca", it is a rock that has a hole; but they have also called that rock with the hole at the Mata Redonda a "pena hueca".

Q. So that in the last analysis the term "pena hueca" has been localized to that one particular place to which you refer?

A. Yes, it refers to the point I have mentioned.

Q. And there is no other "pena hueca" at the same place as the place called Mata Redonda except this "pena hueca"?

A. No, neither in Mata Redonda or in other estates that adjoin it.

Q. Mr. Medrano, you have been employed by The Panama Railroad?

A. Yes, sir.

Q. What years were you employed by the Panama Railroad?

A. Along about 1902.

Q. How long did you work for them?

A. Five or six years.

Q. During that time did you live on "Mata Redonda"?

A. Yes, sir.

Q. In what vocation were you employed by the Panama Railroad Company?

A. I was foreman.

Q. Foreman of what?

A. In the railroad yard.

Q. You were employed as watchman?

A. More or less, but I was not called a watchman.

Q. Would you go to your house every night to sleep?

A. Yes.

Q. Then you worked for the Panama Railroad Company from 1902 for a period of five or six years?

A. Yes, more or less.

Q. You were working them for the Panama
312 Railroad Company at the same time you were building fences for Mr. Brin?

A. No, I was in charge of the property all the time; on the Panama Railroad I worked fifteen days at a time day time and fifteen days at night,—the time I worked at night I had the day free.

Q. How many hours did you work with the Panama Railroad each day?

A. Twelve to thirteen hours. I got 'over-time' when I worked at night time.

Q. Were you ever arrested while an employee of the Panama Railroad Company?

Mr. MacIntyre:
To which we object; what's that got to do with this case?

The Court:
Objection sustained:

Judge Fairman.
(Continuing). Have you ever been convicted of a crime while in the employ of the Panama Railroad Company?

Mr. MacIntyre:
To which we have to object.

The Court:
He may answer it.

Witness:
No, sir.

Mr. MacIntyre:
Now, you got your answer.

Judge Fairman:
Is there any other person by the name of Pablo Medrano besides yourself in this vicinity?
A. I am Pablo Medrano, but there are other Medranos.
Q. You were not the Pablo Medrano who on April 3, 1907 was sentenced to six months in the Canal Zone Penitentiary for burglary?
A. No, sir, I was not.

The Court:
That is enough of that, you have gone further now than you ought. Proceed.

Judge Fairman:
I assume Mr. Medrano will be present in Court any time we wish to have him identified?

The Court:
Proceed with your examination, and let the witness get off the stand.

Judge Fairman:
I am finished.

Re-Direct Examination.

Mr. MacIntyre:
Q. The attorney asked you if any of those tenants had written contracts with Guillermo Patterson;
313 handing you a paper marked Exhibit "B-4", I will ask you what is this?
A. It is a contract for Mata Redonda.

Judge Fairman:

(Examining Exhibit "B-4"): I have no objection to these contracts providing you can bring forward the party presumed to have executed them.

The Court:

What is the use of that; his evidence shows they had written contracts and it has been undisputed; it stands here proven that there are written contracts with these lessees.

Mr. MacIntyre:

(Continuing): I would like to produce the contract with Jaen, as witness Navarro stated on page 199 of the record that Jaen was paying rent to Mrs. Catalina Lewis de Paredes.

The Court:

You may introduce that one.

Judge Fairman:

We object unless the signature of the lease is proven.

The Court:

Go ahead and lay the foundation.

Mr. MacIntyre:

Do you know whether Francisco Jaen had a contract in 1899 to pay rent to Mr. Patterson for 'una cabulla'?

A. He had many contracts there; I had them there until the Zone authorities made them get out.

Q. Do you know whether Francisco Jaen signed a contract?

A. Yes, sir.

Q. Do you know whether Francisco Jaen held land under that particular contract?

A. Yes, he did.
Q. Who collected rent from Francisco Jaen?
A. I did.
Q. Do you know Jaen's signature when you see it?
A. This is his signature. (indicating).
Q. We wish to introduce that in evidence.

The Court:
It may be introduced.

Judge Fairman:
(To witness): Did you see him sign that?
A. Yes, sir.
Q. Signed it in your presence?
A. Yes, sir.
Q. This was for one year?
A. Yes, sir.
Q. Ever issue another lease to the same man after that?

The Court:
I introduced that in evidence; now proceed with something else; it is no use wasting all this time; the ruling has been made.

Judge Fairman:
I save my exception. I wish to state the grounds.

The Court:
I hope you will not annoy me with that; you have to state your ground before ruling. Proceed with something else.

Judge Fairman:
I have nothing else.

314 Mr. MacIntyre:
That is all.

(Witness retires from witness stand).

PABLO RANGEL, is next called by the defendant, and being duly sworn, testified in Spanish through the official interpreter as follows:

Direct Examination.

By Mr. MacIntyre:

Q. What is your name

A. P. Rangel.

Q Where do you live, Rangel?

A. In Balboa Street, No. 16.

Q. Do you know Jose Pablo Medrano?

A. Yes, he is here.

Q. At any time in the years 1917 and 1918 did Mr. Medrano ask you to go with him to the property of Mata Redonda temporarily?

A. I do not know whether it was Mata Redonda, he took me out along with Francisco Berocal to see work being done by three men at a place where there is a small quarry near the chapel.

Q. About when was that?

A. Some more or less in the month of September, 1918.

Q. Did Mr. Medrano in your presence and hearing ask those men what they were doing or who sent them there?

A. He asked them, and they replied they were working at the order of one Mr. Ponton, and that man Ponton is foreman in the employ of Mr. Domingo Diaz.

Q. What were these men doing there that you saw?

A. They were there with chisels; and when I arrived there they were working with pick and shovel throwing dirt to one side.

Q. Were there any fresh holes made in that rock that you could see when you went there?

A. With those instruments they were scooping up earth and discovering holes there.

Q. And you saw them doing this yourself?

A. Yes; also Barocal.

Q. That is all.

Cross-Examination.

Judge Fairman:

Q. Did you see these men with chisels and hammers cutting holes in the rock itself?

315 A. No, by the time I got there they were throwing dirt with shovels to one side, and digging out dirt.

Q. You did not see any chisels and they were not cutting any holes?

A. Not at that moment.

Q. (To interpreter): Did he see any chisels there that they had used?

A. Yes, they had their chisels, picks, shovels, and hoe.

Q. Did these holes look like they had just been freshly cut?

A. They appeared natural there; they were taking the dirt out.

Q. Then you saw no holes that had been cut with chisels out of the rock?

A. Not at that moment.

Q. What moment did you see them?

A. That is a kind of a quarry, and it always had a cavity that one makes.

Q. Then you never saw any holes cut out with chisels?

A. No; I only saw them taking out the earth.

Q. That is all.

Mr. MacIntyre:

That is all. Mr. Walter F. Van Dame will be called next.

(The hour of 9:00 p m. having passed, and the next witness not being present in Court at the time, adjournment is taken until 9:00 a. m., April 23, 1921, at which time the trial of the cause is resumed, as follows).

The Court:

I understand it is your agreement that Mr. Van Dame will testify this afternoon.

Judge Fairman:

Yes, sir.

Mr. MacIntyre:

Yes, sir.

The Court:

The defendant then rests with the exception of Mr. Walter F. Van Dame as a witness, who is to testify this afternoon, and his testimony is to be entered at this place in the printed record, and immediately after his testimony the defendant will rest.

(Thereupon plaintiffs introduce the following testimony in rebuttal.)

316 FELIX A. ALVEREZ, a witness called by the plaintiff, having been duly sworn according to law, is examined, and testified as follows:

Direct Examination.

(In Spanish, through official interpreter).

By Judge Fairman:

Q. Please state your name.

A. Felix A. Alverez.

Q. Where do you reside?

A. In the city of Panama.

Q. How long have you lived in the city of Panama?

A. Thirty-two years I have been living in the city of Panama.

Q. In what vocation have you been engaged?

A. Shortly after I came to Panama, for a period of something like twenty years, I have been with the police force of Panama.

Q. Were you ever engaged on the Canal Zone police force?

A. For four years and two months.

Q. What years were you on the Canal Zone police force?

A. The 2nd of July, 1905, I entered.

Q. When did you leave?

A. In the month of September.

Q. What year?

A. I was four years and two months in the service.

Q. Do you know one Jose Pablo Medrano?

A. Yes, for a number of years.

Q. About how many years?

A. Over eighteen years.

Q. Are you acquainted with his reputation in the vicinity in which his lives?
A. His reputation is not very good.

The Court:
Strike that out; that is not the question.

Judge Fairman:
(Continuing: Do you know it?
A. Yes, I know it.
Q. Is that reputation good or bad?

Mr. MacIntyre:
To which we object.

The Court:
Objection sustained.

Judge Fairman:
To which we save our exception.

The Court:
You have not put the right questions in, Judge, there are only certain elements that reputation is good for; general moral character, and for truth and veracity.

317 Judge Fairman:
I will ask you what the reputation of Jose Pablo Medrano is as to his truth and veracity in the vicinity in which he—

Mr. MacnItyre:
(Interrupting): To which we object—

The Court:
Objection sustained.

Judge Fairman:

Are you acquainted with the reputation of Jose Pablo Medrano for truth and veracity in the vicinity in which he lives?

A. Yes, sir.

Q. What is that reputation, good or bad?

A. He has the defect when he is drunk he is a dangerous man.

The Court:

That answer may be stricken out.

Judge Fairman:

Were you ever employed on the police force of the Canal Zone, at or near Culebra?

A. When I first entered the police force, I was around Culebra.

Q. Did you have occasion to see Jose Pablo Medrano near Culebra?

A. I saw him one day when I went there on a commission.

Q. Was he wearing any kind of particular clothes?

Mr. MacIntyre:

We object to that.

The Court:

He ought to answer that "yes" or "no"; all the question was, was whether he saw him or not.

Judge Fairman:

(Continuing): Did you have occasion to see Jose Pablo Medrano near Culebra?

A. I saw him in the Culebra Penitentiary.

Mr. MacIntyre:
To which we object.

The Court:
That answer may be stricken out.

Judge Fairman:
Answer "yes" or "no".
A. Yes.
Q. What was he doing when you saw him?

Mr. MacIntyre:
To which we object.

The Court:
I do not know; it may be important; if it is simply for impeachment, it is not worth anything.

Witness:
He was a prisoner.

Mr. Todd:
I ask that that be stricken.

Judge Fairman:
(Continuing): Is this Jose Pablo Medrano,—in whose employ is he now, if you know?
A. At present he is not employed; he lives independently.

The Court:
Now, Judge, let me ask you; you know so well the rules that is not the way for you to try to impeach; you cannot go specifically with any witness like that; and I hope you will not infringe upon the rules of evi-

dence. If you go into all these details you will have to let the man go in defense of himself on collateral matter, and you would never get through with this law suit.

318 Judge Fairman:

I wish to identify by this witness the man who testified last night.

The Court:

Yes, but that is collateral matter,—you started the right way to show his general reputation and general moral character,—but whether a man is ever convicted of a crime, that is a collateral matter; you can show his general reputation and moral character,—a man may be unjustly imprisoned. Go ahead with something that is important.

Judge Fairman:

I will ask the stenographer to strike that all out.

The Court:

Strike out the whole examination except his name, his profession and career.

Judge Fairman:

(Resuming examination): Are you acquainted with the general reputation of Jose Pablo Medrano for truth and veracity and his general character in the vicinity in which he lives?

A. Yes, sir.

Q. State what that reputation is for truth and veracity and general character, good or bad.

A. He has no very good conduct.

The Court:
That answer may be stricken out.

Judge Fairman:
State whether that reputation is good or bad?
A. His reputation is not good.

Mr. MacIntyre:
I ask that to be stricken out for this reason; the attorney asked a double-barreled question—

The Court:
(Interrupting): I saw it was,—but you did not object to it.

Mr. MacIntyre:
He has asked a double-barreled question, and—

The Court:
Yes, but you did not object.

Mr. MacIntyre:
And that answer is not responsive.

Judge Fairman:
(Continues): Was this Jose Pablo Medrano ever in the employ of Guillermo Patterson, to your knowledge?
A. Yes, when I was on the Sabanas police station, I knew him as an employee of Mr. Patterson.
Q. (To Mr. MacIntyre) Take the witness.

Cross-Examination.

By Mr. MacIntyre:
Q. Are you positive that you worked for the Zone police force from 1905 for four years and two months?

A. Yes, sir.

Q. In the former trial of this case you testified you worked for the Zone police force for six years; which is true,—what you swore to first, or what you are swearing to now?

A. There was a mistake at that time.

Q. Isn't it a fact that in the former trial of this cause in May, 1918, the following question was
319 asked: "Were you ever employed on the Canal Zone police force"? Answer: "Yes, sir; well, it was July 5, 1905, when I started, until I was let out of the police force in 1911". Was that correct?

A. When I was here before, I testified I was employed four years and two months.

Q. Isn't it a fact that immediately following that question and answer, is the following: "For how many years did you work for the Canal Zone police force"? To which you answered: "From 1905 to 1911; I was chief of a section."

A. It was four years and two months.

Q. That is not responsive.

The Court:

Let him answer the question that was asked.

A. I testified I served four years and two months; if there has been some alteration in the testimony, I do not know why it is.

Mr. MacIntyre:

You also stated that Medrano at present is not working; do you know what his relations with myself are? and how do you know?

A. I do not know of his having any employment at all now; I knew he was living there in the Sabanas at a property he* bought. (*He,—meaning counsel. Rep.)

Q. You do not know whether Mr. Medrano is working for me, and has been working for me the last six months?

A. No, at the present time, I did not know.

Q. When in response to a question in your direct examination as to whether Mr. Medrano was at present employed or not, why did you swear he was not employed if you did not know?

A. Because, here in the city I did not know of his having any employment whatever.

Q. That is all.

Judge Fairman:

Q. I wish to examine him on some particular facts on the estate.

Mr. MacIntyre:

I am going to object to the plaintiff introducing any evidence save in rebuttal, except as per agreement, the plaintiff rested his case, with the distinct understanding that he might introduce the deeds which were specified in the alleged description of title,—plaintiff's exhibit,—and for that purpose and that purpose alone the plaintiff was given the right to resubmit evidence.

The Court:

This man can testify anything in rebuttal; not on the original case.

Judge Fairman:

Are you acquainted with the old Porto Bello trail that crosses the Sabanas and through the lines of Lo de Caceres and Mata Redonda; it is also called the Lucha Franco Road.

A. I know the Lucha Franco Road, yes.

Q. Were you acquainted with that road in the years 1905-1907?

A. Yes, I know it; at that time I was in
320 the service of the Zone, and I was on that beat.

Q. I will ask you to state what you know in regard to any fence, old or new, that was along that road in the years 1905-1907?

A. I do not know of any fence along that road; I know of one fence that Aleman had in the place of his called "Alemania".

Q. Was there any fence along this road at that time?

A. No, I do not know of any fence, with the exception of that one.

Q. When did you first see a fence along that road?

Mr. MacIntyre:

We object to that; he testified he never saw one.

The Court:

Objection sustained.

Judge Fairman:

Did you ever see a fence along that road, and if so, when?

A. At the time I had to go over that region out there when I was on the force, the only fence I knew was on the Aleman property.

The Court:

That answer may be stricken. Read the question again to the witness.

Judge Fairman:

(Interrupting): Did you ever see a fence along the Lucha Franco part of the Porto Bello trail, and if so when?

A. No, sir.

Q. Did you ever see Mr. Juan Brin building a fence in that vicinity?

A. That was in 1908 that Mr. Brin took down the fence at Lo de Caceres; he put up a fence to tie some cattle at a milk dairy he set up.

Q. That was along this Lucha Franco road?

A. No, it was there at Lo de Caceres near Aleman's property; there were new posts with wires.

Q. That was the only fence you ever had occasion to observe in that place?

A. Yes, to observe in 1908.

Q. That is all.

Cross Examination.

By Mr. MacIntyre:

Then Mr. Brin did not build a fence along the Lucha Franco road?

A. No, I have never seen any fence along there.

Q. And there never did, or does not exist, a fence at any time up to 1909, when you left the police force, along the Lucha Franco road,—is that right?

A. From the time of the Aleman fence, and the one Juan Brin put up to tie cattle to, I have never known of any fence.

Q. Was there ever a gate on the trail leading from Lucha Franco to Mocambo, called the Loma or Mocambo trail; was there ever a gate on that trail at that place?

A. I do not remember of having ever seen a gate there.

Q. If there was a gate there you certainly
321 would have seen it, would you not?

A. Certainly, that is a straight trail, and a person going on that trial would see it.

Q. Was there ever a gate going into Mr. Patterson's property at any time?

A. I knew a fence belonging to Mr. Aleman, of the estate called "Josefina," it came and extended to Lo de Caceres.

Q. But you do not know of any gate built by Mr. Patterson to go into his property?

A. I do not know any; I know Alleman's fence.

Q. Mr. Alverez, in May, 1918, you came here as witness for Mr. Patterson in this cause, what in the meantime, has caused your change of heart?

A. Whatever I said there at that testimony I ratify, with the exception of the time I was in the service of the police force.

Q. You ratify everthing you said in your first testimony then, do you?

A. Yes, I ratify my testimony given at that time.

Q. At that time you testified that the spot known as La Mata Redonda was situated near Mr. Patterson's house, and near Aleman's fence; is that true?

A. Yes, there is an old house there.

Q. Do you know the house where Mr. Patterson lived?

A. Yes, in an old house.

Q. Near the entrance to the property?

A. The house that was there; there is a round bush about the place, and the people said that is the Mata Redonda,—that round bush.

Q. That is all.

Judge Fairman:

No questions.

(Witness retires.)

JUAN NAVARRO is now called by the plaintiffs, and being duly sworn, testified as follows:

Direct Examination.

By Judge Fairman:

Q. State your age.

A. Juan Navarro.

Q. Where do you reside?

A. Panama City.

Q. How long have you been a resident of Panama City?

A. All my life.

Q. What is your age?

A. Forty-one.

Q. Are you acquainted with the estate of Lo de Caceres?

A. Yes, sir.

Q. What is the nature of your knowledge of
322 that estate and how did you acquire it?

A. I acquired a knowledge of that estate since I was a boy, as my father used to have a establishment in the estate of Jan Jose, which is an estate close to Lo de Caceres and Mata Redonda; and since the end of 1903 when I married the daughter of one of the owners of Lo de Caceres, Mrs. Otilde Parades de Arosemena, I have had further knowledge of the estate of Lo de Caceres.

Q. You have actual knowledge of the physical conditions of the estate?

A. Yes, sir; perfectly.

Q. Have you been over it a great many times?

A. Many times.

Q. Are you acquainted with the various fences located on that estate?

A. I am very well; I have knowledge of all fences and boundaries of that estate.

Mr. Todd:
I ask that that be stricken as not responsive.

The Court:
Yes, that may be stricken; ask the question again.

Reporter:
Are you acquainted with the various fences located on that estate?

Witness:
I am.

Judge Fairman:
(Continuing): About how long have you had this personal knowledge of the estate of Lo de Caceres,—about how many years?

A. I have had a better knowledge of that estate since the year 1904, since which year I used to stay out there during the Dry Season with my wife and family.

Q. What can you say with regard to any fence being located along the Lucha Franco part of the Porto Bello trail in the year 1904?

A. There was no fence on that road in 1904 except a small circle which was built by Mr. Aleman at the place called Alemania.

Q. Was there any road or fence line leading through the Alemania property towards Lucha Franco property and along this road?

A. There was no fence at that time.

Q. Was there any signs of a fence?

A. No.

Q. When did you first observe any fences along this place?

A. I observed it after Mr. Juan Brin built that fence at the end of 1908 or the beginning of 1909 along that road.

Q. So that is the first sign of any fence along there that you ever observed?

A. Yes, sir, that is the first sign of any fence I observed except the one I mentioned before.

323 Q. What acts of possession, if any, did you ever observe Mr. Guillermo Patterson to do in this vicinity?

A. I do not know of any acts of possession of Mr. Patterson; Mrs. Cataline Garcia de Paredes, who was the grandmother of my wife, had requested me to see that the neighbors along Lo de Caceres paid their yearly taxes for the land on which they lived and worked, and I helped Mrs. Garcia de Paredes collect taxes from those neighbors, and more so in the surroundings of the Algarrobo and in all those places.

Mr. MacIntyre:

I move that whole answer be stricken as not responsive.

Judge Fairman:

I will ask that the entire answer be struck out.

The Court:

That answer will all be stricken out.

Judge Fairman:

What acts of possession did you ever observe Mr. Guillermo Patterson do in this vicinity?

The Court:

The question is objectionable, that is a legal proposition; you are having the witness try to state a thing which the Court will have to find.

Judge Fairman:

I will let the question stand, if I asked it in any other form he would not know how to answer the question. Strike out that question. (To witness): What did you ever observe Mr. Patterson or his agents do upon the lands in the vicinity of Lucha Franco part of the Porto Bello Road?

A. With the exception of building this fence in the year I mentioned, I did not see any acts of possession exercised by him.

The Court:

The latter part of that answer may be stricken out.

Judge Fairman:

What other kind of an act would you term it?

The Court:

Re-read the question.

Reporter:

What did you ever observe Mr. Patterson of his agents do upon the lands in the vicinity of Lucha Franco part of the Porto Bello Road?

Mr. MacIntyre:

To which we object as not being proper rebuttal.

The Court:

Let him answer that.

Mr. MacIntyre:

Exception noted.

Witness:

I saw Mr. Juan Brin and Mr. Patterson, build a fence along that road.

Judge Fairman:

What year?

A. At the end of 1908 or '09; that is the only thing I saw.

Q. That is the only thing you ever saw Mr. Patterson or his agents do upon or near that land?

324 A. Yes, sir.

Q. What did you ever observe Mrs. Catalina Garcia de Paredes do with the land west of the Porto Bello trail?

A. You mean the Lucha Franco Road?

Q. Yes, and to the west of it?

A. I observed Mrs. Catalina Lewis de Paredes collect rent from all the people who lived in that neighborhood; I saw them coming to her house to pay these rents for the land they cultivated, and saw it paid in different manners as their means would allow them to do.

Q. They occupied the territory to the west of this trail?

A. Both east and west of this trail they occupied the territory.

Q. Are you acquainted, or have you ever been to the place called the Old Chapel?

A. Several times.

Q. When did you first go there?

A. The first time I recollect having been there was in the year 1894.

Q. What was the cause of your visit at that time?

A. The cause of my visit at that time was to accompany my father and Dr. Carloa Icaza Arosemena and Mr. Eduardo Icaza, and place a stone at the headwater of the Quebrada Platanar, which is very close to this Old Chapel.

Q. Did you see that stone placed there?

A. I saw it myself.

Q. The parties you mentioned, who were they,—owners of the adjoining property?

A. Carlos Icaza Arosemena was owner of the San Jose Estate, and my father had permission to work on the estate and make use of the lands of that estate; therefore they went to place this stone so as to show the boundary line between the two estates,—the estates of San Jose and Mata Redonda.

Mr. MacIntyre:

To which we object; any delimitation between San Jose and Mata Redonda is not in controversy.

The Court:

It did not hurt you any.

Judge Fairman:

Are you acquainted with the river called Rio Hondo?

A. Yes, sir; I am.

Q. Do you know where the headwaters of that river are?

Mr. MacIntyre:

To which we object; the witness has not qualified himself as a geographer and geologist.

The Court:

If he knows as a matter of fact. Objection overruled, and exception for the defendant.

Judge Fairman:

In relation to the place called Paso Real on the road leading to the estate of Mata Redonda,—in
325 which direction from that do the headwaters of the Rio Hundo lie?

A. The headwaters of the Rio Hondo lie on the northern part at a distance from Paso Real.

Q. They lie to the north?

A. Yes, to the north, at a distance from Paso Real.

Q. Do you know whatever became of that stone that was located at this boundary line you speak of?

A. At that time when we went to place these two stones one was placed at the Quebrada Platanar, and the other stone was placed at the headwaters of the Rio Hondo, but I did not see the placing of this second stone,—only the first stone. One of these stones I have seen it lately in the last few years that has been removed I suppose from the headwaters of the Rio Hondo.

The Court:

The last part may be stricken out; wait until the attorney asks you something.

Judge Fairman:

The stone which you saw was the one which you had placed at the headwaters of the Rio Hondo,—is that correct?

A. I did not see the placing of the stone at the headwaters of the Rio Hondo.

Q. You did not?

A. No.

Q. Did you see the stone that was going to be placed there?

A. Yes.

Q. Who placed that stone?

The Court:

He said he did not know and never saw it placed; what is the use of asking him something he does not know.

Judge Fairman:

Did that stone have any words placed upon it?

A. Yes; it had on one side the names of the two estates.

Q. Did you ever see that stone afterwards?

A. I have seen that stone next close to the Paso Real and one face has been chopped off.

Q. And that is the same stone you saw before?

A. Yes, sir.

Q. What were the names of the estates that were placed on that?

A. Rio Hondo on one side and the other side was written Lo de Caceres.

Q. Take the witness.

Cross Examination.

By Mr. MacIntyre:

Q. Now, you stated that you knew Mrs. Catalina Lewis Garcia de Paredes collected rents for
326 land lying to the west of the Lucha Franco Road?

A. Yes, sir.

Q. I am going to show you the map introduced as plaintiffs' Exhibit "2," and ask you to point out on that map for what lands west of the Lucha Franco Road Mrs. Catalina Lewis Garcia de Paredes ever collected any rent?

A. (Examines map.)

Q. I will ask you to indicate to me for what lands on the west,—this is the west (indicating)—of this trail Mrs. Lewis ever collected rents, and from whom?

A. She collected on all these houses (indicating) as far as this Old Chapel.

Q. But the Old Chapel is down here?

A. All this area here. (indicating).

Q. She collect any rent from Mr. Patterson?

A. I have no knowledge that she ever collected rent from Mr. Patterson.

Q. She collect from Garibaldi?

A. Yes.

Q. Collect rent from Goyo Majagua?

A. I do not remember.

Q. Collect rent for this old meadow near the old chapel?

A. I do not think she collected rent from that.

Q. She collect rent from Isaac Horace?

A. (Indicates negative reply).

Q. From Francisco Jaen?

A. Oh, yes.

Q. Where did Gomez live?

A. He lived next to the place called Alemania.

Q. She collect rents from him?

A. This fellow Gomez not only paid rent but he collected rent as he was foreman for Mrs. Paredes and one of her agents.

Q. Isn't it a fact that in a judicial proceedings in Panama Guillermo Patterson evicted Gomez for failure to pay rent, and had him put out?

A. I have knowledge to the contrary.

Q. This "Potrero 4.8",—that's where Gomez lived?

A. I could not say exactly, it's on the road close to the Paso Rio Abajo.

Q. Is it somewhere near the Quebrada Carbon?

A. Somewhere near.

Q. Mrs. Catalina Lewis de Paredes collect rent from Hernandez?

A. Yes, he was among the tenants.

Q. Isn't it a fact that all these people who had lands and plantations in here (indicating) lived right near your mother's house on the lands of Lo de Caceres?

A. They lived behind the house, and had houses here, but their working places were on this
327 side.

Q. And they paid rent to your mother for the houses?

A. I guess they paid for both.

Q. You do not know whether they paid Mr. Patterson for the land they occupied inside here? (indicating).

A. I do not know.

Q. You do not know one way or the other?

A. No; but I know Mr. Patterson,—I heard they were requested to pay by him, but they always paid Mrs. Paredes for all this land; and I have seen them come to her; and I have requested them to pay.

Q. How about Moreno on this map? (Exhibit "2.")

A. I do not remember.

Q. How about Mosquera?

A. I do not remember.

Q. How about Juan Puello?

A. I do not know the name.

Q. And Isadora La Borsjo?

A. I could not say; I know of many other names around here, too; there is Francosco Narisca family there,—if I can say anything else?

The Court:

Just answer the questions. 8

Mr. MacIntyre:

Mr. Navarro, do you know of any one who had their house as well as their cultivation within Mata Redonda property and had no house and no cultivation whatsoever within Mrs. Catalina Lewis de Paredes' place and who paid her?

A. Yes, I did know a few.

Q. Who were they?

A. A man by the name of Garibaldi and Felipe Hernandez.

Q. Garibaldi lived right inside here? (indicating).

A. For a time he lived inside.

Q. During the time he lived inside was he paying Mrs. Catalina Lewis de Paredes?

A. He always paid her; also Hernandez; also another one by the name of Gomez, and Francisco Jaen.

Q. Where did Francisco Jaen have his house where he lived?

A. He had his house on this side of this road (indicating).

Q. On the left hand side of the road to Lucha Franco?

A. On the left.

Q. Away inside, or somewhere near Mrs. Catalina de Paredes?

A. He never lived on this side at all.

Q. How about Castilla?

A. I do not remember that name.

Q. You have stated that Don Guillermo Patterson never did have Felix Gomez evicted for non-
328 payment of rent; are you sure of that?

A. I heard he had some trouble with Mr. Patterson but never knew he had been evicted.

Q. Showing you defendants' Exhibit "A-2", pages (k) to (r), I will ask you to tell the Judge what is this?

A. (Examining document).

Q. Is this a certificate by the Director of the National Archives containing certified proceedings?

A. It is a certificate, but I do not know the proceedings.

Q. By the Director of the National Archives?

A. By the Sub-Director of the National Archives.

Q. Page (dd) is that a certificate by the Secretary of Foreign Affairs? That the signature of the man who signed is authentic?

A. Well,—yes.

Q. That is signed by Dr. Narcio Garay?

A. Yes.

Q. And by the Executive Secretary of the Canal Zone?

A. It looks so.

Q. Now, Mr. Navarro, in what year did Francisco Jaen pay rent to Mrs. Paredes?

Judge Fairman: (Examining Exhibit "A-2")

When the translation is furnished there will be no objection on our part; we want the translation.

Mr. MacIntyre (Continuing):

In what year did Francisco Jaen pay rent to Mrs. Paredes?

A. From 1904.

Q. How about in 1899?

A. I do not know in regard to that time.

Q. I will hand you Exhibit "B-4" already introduced in evidence, and ask you if that is not a contract between Francisco Jaen and Guillermo Patterson in 1899 for rent?

A. This is a contract, but I do not know if it has been executed in the year 1899.

Q. What date does it bear?

A. 1898, which is scratched out and 1899 written on top; but I do not know whether this is the contract written at the time or not, I could not state,—anyone can write a contract at any time.

Q. Handing you a paper marked "Exhibit B-5" I will ask you what does this appear to be on the face of it?

A. It appears to be a contract between Mr. Patterson and Felipe Hernandez.

Q. This Felipe Hernandez is the man whom you state lived down here and paid rent to Mrs. Catalina Lewis de Paredes?

A. Yes, sir.

Q. Was Felipe Hernandez paying rent to Mrs. Paredes in 1907?

A. He was.

329 Q. I wish to introduce Exhibit "B-6", being a contract of rent between Felipe Hernandez and Guillermo Patterson for lands in Mata Redonda.

The Court:

You have not laid the foundation.

Judge Fairman:

I object. It has not been properly identified; and second, the instrument itself does not state what property, if any, except the Estate of Mata Redonda.

Mr. MacIntyre:

It says a lot of land in Mata Redonda.

The Court:

Lay your foundation and show what it is; it is only admissible on the ground that this witness has testified during that time this same lessee paid rent to his mother-in-law.

Mr. MacIntyre (Continuing):

Is this contract of rent signed by the names of Felipe Hernandez and Guillermo Patterson?—I am not asking if the signatures are true.

A. The names written below here are the names of Mr. Patterson and another name, Jose de Leon, who signs for Mr. Hernandez.

Q. I will ask you if this is a contract of rent from Felipe Hernandez from Guillermo Patterson for a lot of land in Mata Redonda?

A. It says it is a contract for renting of land in Mata Redonda.

Q. What date does it bear?

A. January, 1907.

Q. At this time I would like to call Dr. Patterson.

(Whereupon Witness Navarro is temporarily excused, and Dr. Guillermo Patterson, Jr., is further examined, as follows:

GUILLERMO PATTERSON, a witness for the defendant, was re-called, and his examination continued, as follows:

By Mr. MacIntyre:

Q. Handing you defendant's Exhibit "B-5", I will ask you if that bears Guillermo Patterson's signature?

A. Yes, sir.

Q. In whose handwriting?

A. My father's.

Q. Do you know your father's handwriting?

A. I should say I do.

Q. By whom is that signed by?

A. Jose Isabel de Leon, at the request of Felipe Hernandez, who does not know how to sign.

Q. Is that the way, in Spanish, any form of document is signed by a person who cannot write?

A. Yes, sir.

330 Q. You know the signature of Leon?

A. Yes, sir.

Q. Know that that is his handwriting?

A. Yes, sir, it is.

Q. Do you know of your own knowledge that there was a contract for land between your father and Felipe Hernandez?

A. This is one of them; there are several.

Judge Fairman:

Is that the legal form of lease under the laws of the Republic of Panama?

A. Yes, sir, for the amount of money entailed it is perfectly legal.

Mr. MacIntyre:

I offer it in evidence now.

Judge Fairman:

We object on the ground there is no specific property mentioned or named in the document which is the subject of the contract other than the generic term of Mata Redonda.

The Court:

That is so well understood I do not think there should be any question about it. Objetion overruled.

Judge Fairman:

Exception.

(Witness Patterson is now excused, and the examination of the former witness Juan Navarro is continued as follows):

5565

JUAN NAVARRO is now re-called, and his cross-examination continued as follows:

Mr. MacIntyre:

Mr. Navarro, handing you Exhibit "B-6", I will ask you what is this?

Judge Fairman:

Is that another one of the leases?

Mr. MacIntyre:

That is for the man Jaen, whom he says always paid to Mrs. Catalina Lewis de Paredes. (To witness). What is that?

A. This is a general contract between Francisco Jaen and Guillermo Patterson.

Q. What's the subject of the contract?

A. Rental of land.

Q. Where?

A. It does not state.

Q. What year is that purported to be?

A. 1900.

Q. Handing the witness Exhibit "B-4" already introduced in evidence, I will ask you if the signature of Francisco Jaen on Exhibit "4" is the same as the signature of Francisco Jaen on Exhibit "B-6", which you hold?

A. It looks so.

Q. I wish to recall Dr. Patterson.

331 (At this point Guillermo Patterson, Jr., is recalled, Witness Navarro being temporarily excused).

GUILLERMO PATTERSON, JR., a witness for the defendant, is again re-called, and examined further as follows:

Mr. MacIntyre:

Mr. Patterson, handing you Exhibit "B-6", I will ask what that is?

A. This is a contract for land, between my father and Francisco Jaen in the year 1900.

Q. By whom is it signed?

A. By my father and Francisco Jaen.

Q. Do you know your father's handwriting?

A. Yes, sir.

Q. Did you hear Jose Medrano testify he saw Francisco Jaen sign Exhibit "B-4"?

A. Yes, sir; and I know Francisco Jaen's signature, too.

Q. Is it the same signature on "B-4" as "B-6?"

A. Yes, sir.

Q. And you swear that is Francosco Jaen's signature?

A. Yes, sir.

Q. Have you ever seen Francosco Jaen write his name?

A. Yes, several times.

Q. I am making the offer of "B-6" in evidence.

Judge Fairman:

Mr. Patterson, these contracts of leases which you have exhibited here under your "B" exhibits, are printed forms?

A. Partly printed and partly written.

Q. But all of the essential clause of the lease are printed, the only written parts are the signatures?

A. Yes, only the signatures, names, dates, and things of that sort.

Q. This particular lease, that calls for Francisco Jaen, what did you lease him, if anything, in there?

A. A parcel of land, for one year, beginning with the first of January of the present year,—1900,—and can be extended for one more year with agreement of both parties, giving a months' notice.

Q. Where is the land?

A. Mata Redonda.

Q. Does it so state here?

A. Not in this particular one.

Q. Is there any particular land stated in that contract or lease?

A. It says a parcel of land in his land of—(blank)—; omitting the name,—it was not filled in at that time.

The Court:

What land was it that he did lease to Jaen?

A. The Estate of Mata Redonda.

Mr. MacIntyre:

I would like to ask the witness, the lease you hold in your hand is a renewal of the lease of 1899,—

332 Exhibit "B-4?"

Judge Fairman:

It speaks for itself.

The Court:

He may answer it.

Judge Fairman:

Exception.

Witness:

The contract marked Exhibit "B-4" was first made out in 1898, and renewed in 1899 on the same contract by

writing "prorrogado" meaning "renewal," and changing the date; then, the next year, in order not to make any more changes in the same paper, a new paper was filled out January 1, 1900, this of course is a renewal of the same contract; and this contract was renewed several times until Mr. Jaen had to leave there on account of the Zone authorities taking the land.

Mr. MacIntyre:
I will offer it in evidence.

Judge Fairman:
We object to Exhibit "B-6" on the ground that it is not a contract of any kind or character whatsoever, or does it specify any particular land the subject of the contract.

The Court:
Objection overruled.

Judge Fairman:
Exception.

(Witness Patterson is now excused, and the examination of the former witness Juan Navarro is continued as follows):

JUAN NAVARRO now resumes the witness stand, and his examination is continued as follows:

Mr. MacIntyre:
Did you state that when you were on the Lucha Franco trail in 1908, or the early part of 1909, you saw Juan Brin and Guillermo Patterson building a fence?

A. Yes, sir.

Q. On what part of that trail did you see those two gentlemen?

A. From the fence of Lo Gloria towards the Rio Abajo.

Q. Were both of these gentlemen actually stringing wire, or just giving orders to the gang?

A. I saw them there building fences with their own laborers,—building a new fence.

Q. And they were both working?

A. I do not know what you mean by "work."

Q. Were they both on horse back when you saw them then, or was either one of them on horse back?

A. I saw Mr. Brin, I do not remember see-
333 ing Mr. Patterson.

Q. But Mr. Patterson was not there at that time building that fence?

A. I do not recall.

Q. Where was Mr. Brin when you saw him?

A. Well, he came several times to see the work that was being done.

Q. That fence was all brand new,—the posts,—were they brand new?

A. Yes, sir, and had just been cut.

Q. About how big were the posts?

A. Ordinary size.

Q. They were just put there not more than ten years ago?

A. Not more than ten.

Q. And none of these posts have been along that trail more than ten years?

A. No.

Q. That is all.

Re-Direct Examination.

By Judge Fairman:

Q. As a matter of fact they have been there for thirteen years?

A. Since 1908 or 1909,—that would make it twelve or thirteen years.

Q. Have you ever had any experience with erecting fences?

A. Yes, sir.

Q. What's the general characteristic of a fence post that you use in this country for making fences, after putting it in the ground does it continue to grow?

A. Yes, and it grows quickly.

Q. In a space of ten or twelve years how much would a fence post four inches in diameter grow?

A. It would go, so far as I should say in a space of twelve years,—sometimes to one foot,—

Q. (Interrupting) Depending on the nature of the wood which is used in the fence?

A. Yes, sir.

Q. That is all.

Cross Examination.

By Mr. MacIntyre:

Q. What estate was known as Rio Hondo?

A. The first stone was placed, and the idea was to mark the estate of San Jose, and in the second place this stone was to be at the headwater of the Rio Hondo.

Q. But you did not see that stone?

A. No.

Q. So that it did not have the names of the
334 two estates,—only San Jose?

A. I remember the name San Jose.

Q. But on the other side you do not know whether it said "Mata Redonda" or "Rio Hondo?"

A. I think the two names written were "San Jose" and "Rio Hondo."

Q. That is all.

(Witness Navarro is now excused).

(At this point in the procedure Dr. Guillermo Patterson is recalled by the defendant for cross-examination by the plaintiffs on defendant's Exhibit "J" omitted in the procedure of yesterday (April 22, 1921).

DR. GUILLERMO PATTERSON, JR., is re-called for cross examination on defendant's Exhibit "J," as follows:

Cross Examination.

By Judge Fairman:

Q. Mr. Patterson, exhibiting to you defendant's Exhibit "J," which purports to be a deed whereby the heirs of Jose Idifero Noriega sold to Jose del Carmen Rivera on July 27, 1854, the Estate of Mata Redonda,—is this the original or original notarial copy?

A. This is the notarial copy of that deed given to my father in that folder by Mr. Arias, marked defendant's Exhibit "A-1."

Q. Have you the translation of this document as appears on pages 84 to 100 of the record in the Circuit Court of Appeals in the former trial in this case,—is that a correct translation of the document which you have introduced in evidence?

A. I believe it is; it was translated by Mr. Shiebley, the official translator of this Court.

Q. Did you use this document in the trial of the case instituted at your instance in the Courts of Panama?

A. Yes, sir, I used this document in the Republic of Panama, but not in the Canal Zone until this case came up in 1918.

335 Q. But you have used that document in the trial of a case in the Courts of the Republic of Panama?

A. Yes, sir.

Q Which involved the lands of Mata Redonda and Lo de Caceres?

A. No, sir, not all the lands of Mata Redonda; only part of the lands of Mata Redonda outside the Canal Zone.

Q. But it is part of the same lands which you have indicated on this map lying outside the Canal Zone boundary?

A. Yes, sir, entirely in the jurisdiction of the Republic of Panama.

Q. What was the result of that law suit?

A. The result was by some means I hate to qualify at this trial; a "decision" was handed down against my father by the Supreme Court of Panama when the land belonged to me and not my father, and therefore I have instituted another suit to have it declared so.

Q. Where did you institute that suit?

A. In the Republic of Panama.

Q. Is that presently pending?

A. Yes, sir, it is pending.

Q. I think that is all.

Re-Direct Examination.

By Mr. MacIntyre:

Q. Was that Exhibit "J" attached to "G" to "W," inclusive, when first introduced in this Court in 1918?

A. Yes, sir.

Q. And was certificate "W" attached to that as originally produced in this Court?

A. It was attached to all the deeds that were accepted in evidence,—they were all together in one package.

Q. That is all.

Judge Fairman:

It was already admitted, but I did not have an opportunity to see it as it was out being re-certified.

DOMINGO DIAZ A., is next re-called in rebuttal, and is examined and testified as follows:

Direct Examination.

By Judge Fairman:

Q. Mr. Diaz, you heard the testimony of Medrano and Ragel last night with respect to removal
336 of the earth and digging holes in the rock you designate as the Mata Redonda?

A. Yes, sir.

Q. I will ask you to explain to the Court all matters and facts in connection with the occasion which these parties testified to?

A. In the year 1918 the Judge of Panama went to see the Mata Redonda that Patterson claimed,—that was the beginning of the year,—I believe the first ocular

inspection had taken place in January; then, after that, I was compelled to answer Mr. Patterson's law suit for slander of title, otherwise I would not be here,—I have to answer his law suit; I took two occasions, one to clear up the right boundaries, and the other was what you would call a perturbation.

The Court:
A partition action?

Judge Fairman:
No,—possessory action.

Witness:
For encroaching on property, or for building fences or houses, it is a law suit with a man who comes on my land.

The Court:
Trespass?

Judge Fairman:
It must be that.

The Court:
Action can be brought for an injunction.

Witness:
A man comes on my property and build fences and if that fence is more than a year old I have to put in a posesorio suit, and not another suit. I had to answer to the slander; then we went to Court,—that is, the slander,—and they made the delimitation and ocular inspection; then they notified me of the proceedings of the first suit and—

Mr. MacIntyre (Interrupting):
To which we object.

Judge Fairman:
Just tell about your clearing off this rock.

A. We made an ocular inspection in January, and about the middle of the year we took Judge Jackson to make an ocular inspection; Mr. Patterson sent his men to clear the trail to the headwaters of the Platanar, and I sent my men to take the earth off the holes with anything he could, and I ordered him to clear the woods and trails to the chapel and the house so that the Judge would not be delayed, but could get quickly through; I ordered the dirt cleared off the holes.

The Court:
You did not order any new holes made?

A. No, the old holes spoke for themselves. I have declared in Mr. Goolsby's office that Mata Redonda they testified to up by Mr. Aleman's—

337 Judge Fairman: (Interrupting):
Now, Mr. Diaz, I believe you stated when you were placed upon the stand that you have been acquainted with the lands of Lo de Caceres and the general physical situation of the land around and upon this property for a period of about forty years, or since you were a very small boy?

A. Yes, Doctor.

Q. Did I also understand you to state that you were in the habit of spending your summers upon this Estate?

A Yes, sir.

The Court:
What Estate?

Judge Fairman:

Lo de Caceres?

A. Yes, sir.

Q. During your stays upon this estate have you had occasion to travel over the Lucha Franco branch or part of the Old Porto Bello trail?

A. Many times.

Q. State to the Court what you observed along that road or in that vicinity with respect to fences?

A. There was no fence before; I knew when this property was without fences; I knew the properties on the Sabanas Road when without fences, and where Mr. Arias' house is,—I knew that about thirty-five or forty years; I knew the Sabanas were all plain fields, and I went to the house before this property was sold; later on I bought this property, in 1909, through Mrs. Paredes' son. The first fence ever in this section was the fence of Mr. Aleman, and on this side where the old house is, (indicating on Exhibit "2"); my uncle was here (indicating), and Mrs. Catalina de Paredes was nearby;—all were together. There was no fence except this man's, Felix Gomez, that I remember; that fence of Felix Gomez I do not know particularly,—I know that from Mr. Aleman's information.

The Court:

Re-read that question.

Reporter:

State to the Court what you observed along that road or in that vicinity with respect to fences?

Witness:

There was no fence on that road except the fence of Mr. Aleman.

Judge Fairman:

When did you first observe any fence along that road, what year?

A. On the left hand side of that road I observed it in 1918 when I went with Mr. Navarro to make observations.

The Court:

1898?

A. In 1908, not 1918.

Judge Fairman:

Who was placing that fence there at that time?

A. By order of Mr. Juan Brin who was in charge of Mata Redonda at that time for Mr. Patterson.

338 Q. Exhibiting to you a document marked plaintiffs' Exhibit "A-A",I will ask you to state what that document is?

A. This is a document of transfer of property from Dr. Mariano Arosemena to Mr. Pedro Miro, October 11, 1831, for Lo de Caceres.

Q. That document contains all authentications of the various officials?

Mr. MacIntyre:

That speaks for itself.

Judge Fairman:

I offer this in evidence and tender the translation fees; this is one of the deeds connecting up Miro.

Mr. MacIntyre:

May it please Your Honor; this is only one of the deeds, he should have record title from 1736, and that abstract showed some eighteen or twenty transfers be-

fore this man Arosemena. You must present your title either beginning at the top and going to the source, or from the source to the top,—

The Court: (Interrupting):

If you take a link out of the chain and it is not connected up it cannot be of much service to the Court. I suppose they are trying to connect them up?

Mr. MacIntyre:

We will have to object to its competency as there is no evidence showing that the grantor ever had any title.

Judge Fairman:

I wish to submit them on the previous proposition. The witness I am to have here at 2:00 o'clock will, I hope, connect them up.

The Court:

It may be admitted conditionally.

Judge Fairman:

Mr. Diaz, exhibiting to you plaintiffs' Exhibit "AA-1" I will ask you to state what that is?

A. This is the same transfer of Lo de Caceres from Juan Herrera y Torres to Jose Balez in the year of January 22, 1824; then on the 13th day of December of the year 1825 Jose Ma. Beliz sells back the same hacienda.

Q. We wish to tender Exhibit "AA-1" in evidence, and tender the translation fees.

Mr. MacIntyre:

To which we will have to put in the same objection, being a sale from a man named Torres, and there is no

proof before the Court that Torres ever had ownership according to the title of plaintiff.

The Court:

It may be admitted conditionally on the ground that plaintiffs must connect up the title.

Judge Fairman:

Now, Mr. Diaz, you heard the testimony of Mr. Patterson this morning with respect to the institu-
339 tion of a law suit by him in the Courts of Panama in the matter effecting the lands and estates of Lo de Caceres and Mata Redonda, did you?

A. I heard Mr. Patterson testify about the ejection of squatters on the land of Mata Redonda.

Q. I am speaking wherein he mentioned the decision of the Supreme Court of Panama?

A. Oh, yes.

Q. You heard him testify in regard to that?

A. Yes, sir.

Q. He testified to the fact that the Supreme Court of Panama had decided against him in that action?

A. Yes, Doctor.

Q. Were the lands involved in that action a part and portion of the original estate of Lo de Caceres and Mata Redonda?

A. It was part of the estate of Lo de Caceres.

Q. And the estate of Mata Redonda disputed the title of Lo de Caceres?

A. Yes, sir.

Q. The lands involved in the action in the Supreme Court of Panama was a part of the original Lo de Caceres which lies contiguous and adjacent to the land now in dispute?

A. Yes, sir.

Q. What titles, if any, did Mr. Patterson present in the trial of that action?

Mr. MacIntyre:
To which we object, may it please Your Honor.

The Court:
Objection sustained.

Judge Fairman: (Continuing):
I exhibit to you here a document, marked plaintiffs' Exhibit "S," and ask you to state what that is?
A. This is a judgment of the Supreme Court of Panama.
Q. In regard to what?
A. In regard to the law suit of the land of Lo de Caceres with Mr. Patterson.
Q. That is the final judgment of the Court of last resort in Panama?
A. Yes, that is the final judgment of the Supreme Court of Panama.
Q. Plaintiffs tender in evidence, plaintiffs' Exhibit "S," the same being the final decree of the Court of last resort of the Republic of Panama in matter effecting the boundaries and estates of Lo de Caceres and Mata Redonda, for that portion of said lands lying without the Canal Zone.

Mr. MacIntyre:
To which we object. The exhibit now presented formed an exhibit and part of the reply set up by plaintiff in which he plead res judicata, and was ordered
340 stricken by this Court. The same exhibit has been offered by the plaintiff at least twice before in this trial, and objection sustained, and it has

not been allowed in. We again object because that purports to be a record of a judicial proceeding of lands which are not the same lands in dispute and is immaterial or irrelevant in this present suit in that this Court is not bound by any decision of the Supreme Court of Panama, but is bound by the mandate of the Circuit Court of Appeals of the Fifth Circuit, as to the trial of this case.

The Court:

This is on the outside of this boundary line?

Mr. MacIntyre:

It is outside of the Canal Zone in the Republic of Panama.

The Court:

The objection will be sustained, and give the plaintiff an exception.

Judge Fairman:

Exception.

Cross Examination.

By Mr. MacIntyre:

Q. Mr. Diaz, you state there was no fence along the Lucha Franco Road or Porto Bello Trail prior to 1908?

A. There was no fence on the Lucha Franco Road prior to 1908 besides the one that Felix Gomez had on the left hand side, and a little around the sugar cane field that Mr. Navarro had very near here. (indicating on Exhibit "2").

Q. Showing the witness a point on the map marked Potrero 4.8, I will ask you to indicate just how far Mr. Gomez' fence ran at that point?

A. Potrero 4.8 was the same as Gomez' place, and was sold by Gomez to Cabellero, and Cabellero sold to Alleman, and Aleman sold to me,—

Q. (Interrupting) Where was the fence?

A. Right here. (Indicating).

Q. The fence ran over to Monument 88?

A. The fence was to a little brook here. (indicating).

Q. How far back did that fence run?

A. It was a circular fence; it may be four hectares, it says here (indicating on map) 4.8.

Q. Can you indicate on this map, Mr. Diaz, the former residence of Mrs. Catalina Lewis de Paredes, about?

A. Mrs. Paredes lived—my uncle is here (indicating)—and very near by was Mrs. Paredes' house.

Q. Will you kindly indicate about where Mrs. Paredes' house was?

A. (Witness marks "X" on Exhibit "2").

341 Q. Now, Mr. Diaz, you state there never was a fence along here?

A. Yes, from this part (indicating) to here what you call Lucha Franco, and what Mr. Patterson calls the Old Porto Bello trail.

Q. Do you know a man named Manuel Mendez?

A. Yes, sir.

Q. Was Ramon Garcia de Paredes his uncle?

A. I cannot be sure of that; I know they are relatives.

Q. How long since did Ramon Garcia de Paredes die,—the husband of Mrs. Catalina Lewis?

A. I know by reference to the succession he died in 1889.

Q. This man, Manuel Mendez, testified at one time in Panama in an action?

A. What action?

Q. In an action between Mr. Patterson and yourself about these lands?

A. I do not remember his testimony.

Q. Do you know Mr. Mendez' signature?

A. No, I am not familiar with it.

Q. You would not know his handwriting?

A. I cannot be sure.

Q. Showing the witness an instrument purported to have been signed by Manuel Mendez in the presence of Judge Erasmo Mendez, I will ask you if that is the signature of Manuel M. Mendez?

A. I believe it is; he is not intimate with me but I have seen his signature.

Q. Mr. Mendez says (reading) "I remember my uncle, Ramon Garcia de Paredes, tells me several times Mr. Patterson was encroaching and moving his fence on the lands of Lo de Caceres adjoining him,"—do you believe that to be true?

A. I do not know.

Q. Mr. Mendez is a fairly honorable man?

A. Yes, sir.

Q. And if he said that it must be true?

A. Probably.

Q. Where would Mr. Patterson be moving his fence and encroaching on Lo de Caceres lands back in 1889?

A. I do not remember except by reference and testimony here; I know Mr. Patterson had a house close to the old chapel. The house of Mr. Patterson that I saw myself with a fence around on this side of the road,—the north side of the road we took to go to the chapel, that is a space with a little prominence, and it is marked on this map here (indicating), Mr. Patterson had his house here (indicating).

Q. Mr. Mendez is referring to the fence on the Porto Bello Road because he said: (reading) "I do not remember in what year I first saw the barbed
342 wire fence which starts from the Mata Redonda and goes along the edge of the Porto Bello trail until it reaches the hill of Algarrobo, but I do remember my uncle, Ramon Garcia de Paredes, made known to me several times that Mr. Patterson was encroaching and moving his fence against the lands of Lo de Caceres adjoining?"

A. That does not say about that fence, to say his uncle told him does not say with reference to that, he says he heard his uncle say so.

Q. That uncle died you say in 1889?

A. Mr. Paredes, I believe, died in 1889

Q. That is all.

Judge Fairman:

That is all.

(The hour of noon having arrived, a recess is taken until 2:00 p. m., at which time the trial of this cause is continued as follows):

Judge Fairman:

It is stipulated between counsel for plaintiffs and defendant that the exhibits of the respective parties heretofore introduced in evidence, together with the exhibits of the respective parties which may be contained in the transcript of record of the former case on appeal to the United States Circuit Court of Appeals, Number 3382, heretofore designated by various letters and numbers shall, for the purpose of this record, be designated consecutively in accordance with their chronological order, be numbered numerically and entitled "Plain-

tiffs' Exhibit 1," etc., and "Defendant's Exhibit I," etc.,— the plaintiffs will use Arabic and the defendant Roman figures.

Mr. MacIntyre:

"It is agreed and stipulated by and between C. P. Fairman, attorney for plaintiffs, and Todd and MacIntyre, attorneys for defendant, that all of the following testimony, introduced, taken, and recorded at the previous trial of this cause, and recorded in the printed record of this cause, used in the United States Circuit Court of Appeals for the Fifth Circuit, Case No. 3382, may be used and considered by this Court in the present hearing without any objection as to its competency or admissibility, to-wit:

(1) The testimony of Manuel A. Alguero, at page 170 of said record, except such parts thereof as refer to a certain map, objected to at the previous trial, and all the hearsay evidence at pages 171 and 172,
343 likewise objected to at said trial.

(2) All of the testimony of Ramon G. Paredes, recorded at pages 178 to 183, inclusive, of said record.

(3) All of the testimony of Eduardo Ycaza, recorded at pages 183 to 187, inclusive, of said record.

(4) All of the testimony of Domingo Diaz, recorded at pages 187 to 190 of said record.

(5) All of the testimony of Florencia Harmodio Arosemena, recorded at pages 190 to 194 of said record.

(6) All of the testimony of Manuel Marie Mendez, recorded at pages 194 to 196 of said record.

(7) All of the testimony of Tiburcio Herrera, recorded at pages 196 to 197 of said record.

(8) All of the testimony of Espiritu Santo Quijada, recorded at pages 197 to 198, of said record.

(9) All of the testimony of Juan Navarro, recorded at pages 199 to 201 of said record.

(10) All of the testimony of Valentine E. Bruno, recorded at pages 202 to 209 of said record.

(11) All of the testimony of Adolfo Aleman, recorded at pages 209 to 210 of said record.

(12) All of the testimony of Felix Gonzales, recorded at pages 210 to 211 of said record.

(13) All of the testimony of Liborio Ariza, recorded at pages 211 to 212 of said record.

(14) All of the testimony of Francisco Antonio Facio, recorded at pages 216 to 226 of said record.

(15) All of the testimony of Antonio Henrique Nicalao, recorded at pages 227 to 228 of said record.

(16) All the testimony of Federico Carcheri, recorded at pages 228 to 229 of said record.

(17) All of the testimony of Omar E. Malsbury, recorded at pages 232 to 245 of said record.

344 (18) All of the testimony of Jose de la Cruz Herrera, recorded at pages 245 to 247 of said record.

(19) All of the testimony of Juan Brin, recorded at pages 247 to 252 of said record.

(20) All of the testimony of Jose Pablo Medrano, recorded at pages 252 to 256 of said record.

(21) All of the testimony of Alejo Villareal, recorded at pages 256 to 259 of said record.

(22) All of the testimony of Mateo Ariza, recorded at pages 257 to 259 of said record.

(23) All of the testimony of Alfred Reed, recorded at pages 259 to 261 of said record.

(24) All of the testimony of Francisco Jaen, recorded at pages 261 to 263 of said record.

(25) All of the testimony of Jose Concepcion Diaz, recorded at pages 263 to 265 of said record.

(26) All of the testimony of Juan Francisco Patterson, recorded at pages 265 to 267 of said record.

(27) All of the testimony of Alfredo Melhado, recorded at pages 267 to 270 of said record.

(28) All of the testimony of Ramiro Arango, recorded at pages 270 to 271 of said record.

(29) All of the testimony of Salvador Diaz, recorded at pages 272 to 274 of said record.

(30) All of the testimony of Samuel Lambert, recorded at pages 274 to 275 of said record.

(31) All of the testimony of Dionicio Ortega, recorded at pages 275 to 276 of said record.

(32) All of the testimony of Domingo Ruiz, recorded at pages 276 to 278 of said record.

(33) All of the testimony of Martin Almanza Calellero, recorded at pages 278 to 280 of said record.

(34) All of the testimony of Ismael Dorsey, recorded at pages 281 to 283 of said record.

345 (35) All of the testimony of Manuel C. De-Leon, recorded at page 282 of said record.

(36) All of the testimony of Felix A. Alvarez, Andres Majica, Blas Garibaldi, Justo Mosquero, Guillermo Patterson, Jr., recorded at pages 283 to 286, inclusive, of said record.

(37) All of the testimony of Guillermo Patterson, Jr., recorded at pages 286 to 321, inclusive, of said record.

(38) All of the testimony of Maria de Los Santos Ruiz, recorded at pages 321 to 323, inclusive, of said record.

(39) All of the testimony of Juan Antonio Guizado, recorded at pages 323 and 324 of said record.

(40) All of the testimony of Jose Maria Caldos, recorded at page 325 of said record.

(41) All of the testimony of Domingo Diaz, recorded on pages 326 to 332, inclusive, of said record.

(42) All of the testimony of Guillermo Patterson, Jr., recorded on pages 332 to 337 of said record."

Mr. MacIntyre:

I would also like to renew objection to the testimony at page 170 of the record which was made in this Court, and on which I believe the Judge incorrectly ruled,—the testimony of Alguero on page 170. I now move to strike all of the testimony of witness Algeuro based on the map shown him, which map was not introduced in evidence and no foundation laid.

Judge Fairman:

I will submit to the objection, but would like to put in such portion of his testimony as does not refer to the map.

The Court:

The objection is sustained.

Mr. MacIntyre:

I will object, too, and ask that the same be stricken as incompetent, all of the testimony of witness Alguero in which he refers to things told him by a Mr. Aleman and testified to what a Mr. Aleman told him, over the objection of counsel.

The Court:

He says 'that Mr. Aleman showed him this rock and other people also, and seeing these holes confirmed his opinion that that was the rock and that this conclusion was in conformity with the decision lately handed down

by a judge in Panama.' He says a conclusion,—that part is objectionable; where he showed him the rock, anything done there would be a part of the act.

346 Judge Fairman:

I do not know that it is very material, and I do not see why that portion of his testimony where he marked the Mata Redonda on the map down to the motion be stricken as hearsay; that portion should not go in.

Mr. MacIntyre:

I object to all evidence admitted on the deed of San Jose of 1826.

Judge Fairman:

I agree with counsel that is objectionable.

The Court:

The objection is sustained to both.

Judge Fairman:

But the particular part I referred to, have you passed on that?

The Court:

"Showed him the place," and so on?

Judge Fairman:

Yes.

The Court:

Yes; that may stand.

Mr. MacIntyre:

As to all reference and reading from the San Jose deed of 1826.

The Court:

That part of witness Alguero's testimony in which he said 'that Mr. Aleman showed him a certain rock and other people also?'

Mr. MacIntyre:

"Mr. Adolfo Aleman, now deceased, who was the owner of La Gloria showed him this place as the real Mata Redonda,"—

The Court: (Interrupting):

That is right.

Mr: MacIntyre: (Continuing):

"Besides I had knowledge that one of the owners of this land had been accustomed to putting salt in this rock for the cattle."

The Court:

That may be stricken out.

Mr. MacIntyre:

"Mr. Aleman showed him this rock and other people also, and seeing these holes confirmed my opinion that that was the rock."

The Court:

That may remain in.

Mr. MacIntyre:

(Continuing reading) "And that this conclusion was in conformity with the decision lately handed down by a judge in Panama."

The Court:

That may be stricken out.

Mr. MacIntyre: (Reading):

"That Mr. Aleman showed the witness another rock and told him that the other rock was not the real Pena Hueca."

The Court:

That is objectionable; the part where he showed him the other rock is admissible, the other is not.

Mr. MacIntyre: (Continuing):

"Beside I remember seeing one of these deeds of 1826."

347 Mr. MacIntyre:

From that on he testified from that deed and the Court allows Mr. Arias to read that deed.

The Court:

That may be stricken.

Judge Fairman:

After that is about the Royal Pass where the road crosses; I will read it to the Court: (Reads)

'That the Royal Pass is where the road crosses to go to Mata Redonda; that if Mata Redonda were on the east of the Rio Hondo it would be necessary to cross it to go there; that he had examined the other place called Mata Redonda or Pena Hueca and that he saw that it did not have holes like the other one, and that it did not have the circular form of the other one nor have the round bush referred to in the deed but that the one marked "X" is a natural rock with a hole in it which is the thing he did not observe on the other; that the other Mata Redonda is on the east side of the Rio

Hondo more or less at a point marked "O" by the witness on the map."

Mr. MacIntyre:
The map has been ruled out.

The Court:
That is admissible; he does not show anything about the map there.

Judge Fairman:
The rest of his testimony goes in?

Mr. MacIntyre:
I guess there is nothing else in there. Now, witness Abel Braco, on page 212, he qualified as an engineer.

The Court:
Yes, he qualified as an engineer, there is a half a page to it.

Mr. MacIntyre: (Reading)
"Q. Do you know the property of Lo de Caceres?
A. I was there about three times, as I remember; I don't know all of the property.
Q. In what connection did you go to visit that property?
A. Because I was appointed Expert, or something like that. Mr. Diaz spoke to me and wanted me to go and visit the property so as to ascertain the boundary; part of the boundary between Lo de Caceres and Mata Redonda: he wanted me to see where the Pena Hueca was; that is the main point; and see Mocambo mountains; settle Mocambo; I went there three times.
Q. Was that in connection with any law suit, or only for his private information that you went?

A. It was a law suit; it was for Judge Fernandez Jaen; Mr. Patterson was the defendant, I understand, also Mr. Patterson, Junior. I understand it is a law suit.

Q. How long ago did you visit those boundary marks?

A. In March and April.

Q. This year?

A. This year.

Q. Did you give an opinion to the Court as to the location of the proper Mata Redonda, that point in dispute?

A. To the Judge Fernandez, yes, sir; I did so; I gave him my opinion of the Mata Redonda.

Q. What, more or less, did you have at hand for the purpose of arriving at that decision?

A. I have visited the land, and established the plans produced by Mr. Diaz and Mr. Patterson, also Mr. Adolfo Aleman. I saw Domingo Diaz' plans and Mr. Patterson's plans, made by the Americans, I understand, a blue print; from those two plans I saw that the land compared.

Q. Did you examine the title deeds of Lo de Caceres and the Mata Redonda?

A. I saw some deeds, and I studied some of them given to me by Mr. Diaz; not by Mr. Patter-
348 son.

Q. Where did you locate the Pena Hueca or Mata Redonda, could you indicate?

A. On the western side of the Rio Hondo."

All of that, Your Honor, I object to, and his location on the western side of the Rio Hondo after having only seen some papers Mr. Diaz gave him and looking at the place.

(Continues reading):

"Q. Could you indicate that on the map you have before you, marked plaintiff's Exhibit "17?"

A. Yes, sir; the place or point marked "X" on the map, assuming this to be north, it is this side.

Q. I want you to state your reasons for that?

A. Some of my reasons are these: Reading one of the deeds of Mata Redonda the document says this in Spanish: (Witness reads in Spanish the description of the boundary lines given in the Crown grant of 1695). And there are no more boundaries; so if that is true, this is the only possible Pena Hueca; that is one of the strongest reasons. I saw one of the documents and it reads like this, one of the Mata Redonda deeds: (Witness read in Spanish boundary description from deed of 1695).

Q. Do you recall which deed it is that you read; have you placed there the part of the instrument that you got the description from?

A. That is the one Mr. Diaz showed me; one of the deeds of that Mata Redonda title.

The Court:

That is the deed of 1915?

Dr. Arias:

No, Your Honor, that is the certificate; that is the deed of 1695; the Crown grant.

Q. Is that the deed of 1695?

A. I don't know which, because it starts at the Pena Hueca and goes up the Cardenas, and then goes down to the Palangana, and up the Palangana waters until the mouth of the Platanar; from the Platanar to the head; there are three sources; and stops there; coming

all around to this point, (indicating point "X") then this must be the Pena Hueca; it did say: start at the Pena Hueca and stops here (indicating) then that must be the Pena Hueca.

Dr. Arias:

He refers to title deed of 1695; defendant's Exhibit "A," attached to the claim.

Witness:

That is one of my reasons. Another reason is that the San Jose deed of 1826; one of the deeds that Mr. Diaz showed me; the deed says that "In order to go from Panama to Mata Redonda it is necessary to pass the Rio Hondo." That is the deed for the San Jose property.

Mr. Ganson:

I object to any testimony based upon what the witness says the deed to the San Jose property said, for the simple reason, first: that the deed is not introduced in evidence; it has not been introduced in evidence, and constitutes merely the testimony of a witness with reference to the contents of an instrument when the instrument is manifestly the best evidence. Second: for the reason that the description contained in that deed of another property than that pertaining either to the defendant or the plaintiff in this case is manifestly incompetent and could not be introduced were it tendered.

Dr. Arias:

I believe that a title deed referring to an adjoining property serves to elicit the different landmarks of the different properties, especially if it is an adjoining estate.

The Court:
He has given his reasons as to why he arrived at that conclusion; his reasons are that he saw some deeds that referred to that. I think I will receive it, subject to your exception.

Mr. Ganson:
Exception noted."

I ask that all that be stricken.

The Court:
Some of it is admissible; go over that again and I will indicate.

Mr. MacIntyre: (Reading):
"Mr. Dias spoke to me and wanted me to go and visit the property"—

349 The Court: (Interrupting):
That is only preliminary and would not do any harm.

Mr. MaIntyre:
(Reading) "Did you give an opinion to the Court as to the location of the proper Mata Redonda, that point in dispute?

The Court:
Giving an opinion to the Court is all objectionable.

Judge Fairman:
Their opinion is by means of a written proposition presented to the Court in that trial.

Mr. MacIntyre: (Reading):

"What, more or less, did you have at hand for the purpose of arriving at that decision?

A. I have visited the land, and established the plans produced by Mr. Diaz and Mr. Patterson, also Mr. Adolfo Aleman. I saw Domingo Diaz' plans and Mr. Patterson's plans, made by the Americans, I understand, a blue print; from those two plans I saw that the land compared."— Here was a witness testifying from plans he did not make himself.

The Court:

He says they were not correct.

Judge Fairman:

He is explaining his opinion as an expert.

Mr. MacIntyre: (Reading):

"Did you examine the title deeds of Le de Caceres and Mata Redonda?

A. I saw some deeds, and I studied some of them given to me by Mr. Diaz; not by Mr. Patterson."

The Court:

That may be stricken out.

Mr. MacIntyre: (Reading):

"Where did you locate the Pena Hueca or Mata Redonda, could you indicate?

A. On the western side of the Rio Hondo." I ask that that be stricken as the witness was not properly qualified from the papers.

The Court:

He says he located it; it depends on what basis he used.

Mr. MacIntyre:
I think it is incompetent.

The Court:
He says he located it;—whether he is right or wrong, that is a different proposition.

Judge Fairman:
He had both maps and deed of 1695.

The Court:
That deed was not in evidence; but the part you just read can stand

Mr. MacIntyre:
Then he is asked for reasons, and answered: "Reading one of the deeds," and so on, "and there are no more boundaries; so if that is true, this is the only possible Pena Hueca."

The Court:
That is argumentative.

Judge Fairman:
It is a statement or opinion based on the Grant of 1695.

350 The Court:
He is trying to give his reasons for locating it; read from there.

Mr. MacIntyre: (Reading):
"This is the only possible Pena Hueca; that is one of the strongest reasons. I saw one of the documents and it reads like this, one of the Mata Redonda deeds:" * *

"That is the one Mr. Diaz showed me; one of the deeds of the Mata Redonda title."

The Court:
Was that deed in evidence?

Mr. MacIntyre:
It was the defendant's exhibit and the defendant had not opened his case. It was merely his opinion.

The Court:
That does not amount to anything one way or other; it depends on the basis a man fixes his opinion.

Mr. MacIntyre:
After that he says: (reading) "That is one of my reasons. Another reason is that the San Jose deed of 1826; one of the deeds that Mr. Diaz showed me," and so on, "That is the deed for the San Jose property."—That San Jose deed was not in evidence.

The Court:
That part may be stricken.

Mr. MacIntyre:
He then continues for quite some while about the San Jose deed.

The Court:
Let the balance of it stand; I will have to weigh the testimony by the foundation of the witness for his information.

Mr. MacIntyre:
That is all about,—of the oral testimony.

(In accordance with the above and foregoing stipulation, the testimony and exhibits of the former trial therein referred to is introduced as follows):

351 MANUEL A. ALGUERO, the first witness called on behalf of the plaintiff, having been first duly sworn, testified as follows:

That his name was Manuel A. Alguero; that he lived in Panama; that he was an agricultural engineer; that he had been such for many years since he graduated in Bogota; that he had surveyed a great many lands in the Republic of Panama since his graduation in 1885; that he has acted as official surveyor for the Republic of Panama; that he knew the lands of "Lo de Caceres" as he had made the plan of the lands in the year 1914; that he made a map of "Lo de Caceres" a copy of which prepared by Mr. Johnston, was shown to him; that Mr. Johnston was Chief of the Technical Department of the Republic of Panama; that he was out of the city; that he, the witness, had used the titles of Mr. Diaz which the plaintiff had given him for the purpose of making his map; that he had had all of the plaintiff's exhibits as annexed to his complaint with the exception of exhibits 11 and 15.

352 The objection being by the Court overruled, the defendant, by counsel, noted his exception.

erly certified and authenticated copy of the deci-
353 sion of the Court in Panama, if it was at all applicable, was the only thing that could be competent in evidence as to the contents of such deci-

sion. This motion, being by the Court overruled, the defendant, by counsel noted his exception.

(Witness continuing): That Mr. Aleman showed the witness another rock and told him that the other rock was not the real Pena Hueca but the one marked "X" on the map and that he remembered seeing a deed of 1826—

Here again, the defendant by counsel moved that the foregoing testimony be stricken as the statements made to the witness by Mr. Aleman were incompetent in evidence and the testimony of the witness, based upon a deed not introduced in evidence, likewise constituted pure hearsay. This motion being by the Court overruled, the defendant, by counsel noted his exception.

Here the attorney for the plaintiff was permitted to read the boundaries of the property known as "San Jose" from a deed dated May 6, 1826, to which the defendant, by counsel, duly objected, upon the following grounds:

That the said deed of San Jose of May 6, 1826, had not been introduced in evidence; that even if introduced it was not competent; that the deed itself was the best evidence as to the contents thereof and that it was attempted by reading the description to convey an improper impression to the Court.

Which objection being overruled by the Court, the defendant, by counsel, noted his exception.

(Witness continuing): That the Royal Pass is where the road crosses to go to Mata Redonda; that if Mata

Redonda were on the east of the Rio Hondo it would be necessary to cross it to go there; that he had examined the other place called Mata Redonda or Pena
354 Hueca and that he saw that it did not have holes like the other one, and that it did not have the circular form of the other one nor have the round bush referred to in the deed but that the one marked "X" is a natural rock with a hole in it which is the thing he did not observe in the other; that the other Mata Redonda is on the east side of the Rio Hondo more or less at a point marked "O" by the witness on the map.

Cross Examination.

That he has a degree from the National University of Bogota, Colombia, as an agronomist engineer; that a farmer engineer is supposed to know civil engineering and agricultural studies, the latter comprising the examination of plants and lands and matters related with agricultural operations; that the study of civil engineering comprises the study of higher mathematics, algebra, calculus, differentiations, the drawing of plans and maps, and surveying and leveling; that at that time in the Republic of Colombia it as not an easy matter to get a civil engineer if one wanted to make a survey or level so they combined the agricultural studies and the engineering studies; that he had studied plane geometry, spherical geometry and solid geometry, analytical geometry and analytical, differential and intergral calculus. Upon being asked to explain the difference between th ellipse, the hyperbole and the parabola, he stated that the curves and lines of the parabol, the represented by means of equations, and the formula that is represented by the parabola is Y—2=2—P—X; but that another formula given by other authors might have other

letters and might therefore result in a different equation; that the formula of the hyperbole and ellipse are similar, the only difference being in the signs, the formula of the hyperbole being A—2=B—2; that he did not remember exactly but that this was more or less so; that he did not remember much about the ellipse as it was similar to the hyperbole and he did not re-
355 member the signs of either very well. Upon being asked to define differential and integral calculus the witness stated that they are complex sciences; that differential calculus has to do with defining an object starting from a certain point and going to another small point, but that integral calculus was quite the contrary; that integral calculus starts from a small point and goes to a big one, more or less; that he had been engaged in the business of drawing plans for the last ten years as well as in other matters; that he had been employed by the Government as Administrator of lands; that he had at one time solicited from the Administrator of public lands the adjudication to him as attorney-in-fact for several parties of a piece of land within the boundaries of the estate of Mata Redonda belonging to Mr. Guillermo Patterson, the defendant adjoining that piece; that there was a hearing before the Administrator of public lands; that the Administrator of public lands refused to hear his petition, stating that it was a matter of judicial determination and did not lie with him.

Upon being shown a certain document by the defendant, he stated that it was a Resolution handed down by the Administrator of lands; that it was a Resolution that was handed down by the Administrator with reference to the witness' petition on behalf of certain people to have adjudicated to him certain lands which he claimed were public lands and which the defendant, Mr.

Patterson, opposed as belonging to the estate of Mata Redonda; that he did not know whether the matter was taken to Court or not; that the following is the concluding paragraph of the Resolution, the entire Resolution being introduced as defendant's exhibit "D", being Resolution No. 3 of January 23, 1915.

"The boundaries given by the deeds and the limitation of the estate of Mata Redonda with the surrounding estates have been copied and it is clear that since Mata Redonda is bounded on all four cardinal
356 points with given private property all the lands lying within all said farms have their own private owners and what does not belong to one belongs to the other. Without hurting Mr. Alguero's feelings, under the strength of logis, a map made by the full commission of well known engineers must prevail over another which has no signature to authorize it. Besides, the boundaries given in all the deeds of the estate of Mata Redonda are in perfect accord with the boundaries drawn on the map of the said land made by competent engineers. In view of all that has been stated the undersigned hereby Resolves: To declare well-founded, just and legal the opposition presented by Mr. G. Patterson to the petition of public lands made by Mr. F. Morales, et al., and to file in the archives proceedings No. 566 which, contains the said petition and to declare that the land included in said petition is not public land and that it belongs to a private owner. Be it notified. The Administrator, (Signed) Alcides Dominguez. The Clerk, (Signed) Roberto Martinez L."

The witness continuing:

That the paragraph just is the decided paragraph; that he did not know whether Mr. Aleman and Mr. Pat-

terson had any law-suits or not but that they had had controversies; that he did not know if there had been disputes between them; that he did not remember whether the terms used in the deeds upon which he bases his opinion as to the map were Ancient Pass or Royal Pass of the Rio Hondo.

(At this point the attorney for the plaintiff admits that the statement is Ancient Pass.)

Witness continuing:

That he is not prepared to say which is the old and which the new road crossing the Rio Hondo; that he understands that the old Paso Real is at the point
357 called "B" as there is no other there and he did not see any other; and that he so marked it on the map; that the year 1914 is the first time that he ever attempted to make a survey of those lands, and that prior to 1914 he did not know where the Ancient Royal Pass was; that he made the map being employed by Mr. Domingo Diaz, the plaintiff; that Mr. Domingo Diaz had not assisted him when he appeared before the Administrator of Public Lands in the Republic of Panama and sought to have adjudicated as public lands a part of Mr. Patterson's property of Mata Redonda; that he had not filed a petition at the solicitation and request of Mr. Diaz; that he did not know that those people had come to him because Mr. Diaz had told them to; that he knew nothing about it; that Mr. Diaz had nothing to do with his appearing before the Administrator; that he did not remember that the Resolution introduced as defendant's exhibit 3, by the Administrator of Public Lands of Panama contained the following statement:

"That Mr. Domingo Diaz, by memorial under date of the 6th of December, 1914, claiming from Mr. Patterson part of the lands which he says are his and he denies the right of Mr. Patterson."

(Witness continuing): That he overlooked this matter; that in his own brief filed with the Administrator of Public Lands, in the proceeding referred to, the writness had made the following statements:

"The lands claimed by Mr. Patterson cannot extend to the fartherest point of the headwaters of the River Cardenas, as he pretends according to his sketch, because if it were so, the lands of Mata Redonda would include part of the estate of Lo de Caceres, belonging to Mr. Domingo Diaz A., as I will prove during the probatory period with a deed which I know to be over a hundred years older that the deed of 1891 filed by Mr. Patterson."

358 "And also I will affirm that the said Mr. Domingo Diaz recognizes and is disposed to declare that all the lands prayed for by those whom I represent is completely free and public lands."

"That he stated in his petition and brief that Mr. Diaz was willing to swear that the lands that he desired to have adjudicated to him were public lands; that Mr. Diaz took over the part of collaborator in the proceedings before the Administrator and that his part was in the line of giving testimony regarding the matter; that in stating that Mr. Diaz had nothing to do with his petition he meant as an attorney as as a collaborator; that it was possible that Mr .Diaz had presented a petition claiming that the lands that he sought to have adju-

dicated to him were public lands; that the estates of Lo de Caceres and Mata Redonda owned by the plaintiff and defendant respectively lie both in the Republic of Panama and the Canal Zone and that the boundary line between them is a continued line in both jurisdictions.

Re-Direct Examination.

That there are indications of the ruins of an old chapel and another house on the place marked "X" on the map; that it is close to the Pena Hueca or Mata Redonda.

By Counsel for Defendant:

There is no claim here of any other hollow rock by Mr. Patterson; there is no other hollow rock; we claim the round bush to be the Pena Hueca; the bush around the hollow rock.

Re-Direct Examination, Continued.

That he examined the rock claimed by Mr. Patterson to be the Mata Redonda; that it was a round rock, but that there are no holes in it and there are some round shrubs around it.

359 Re-Cross Examination.

That Mata Redonda and Pena Hueca are one and the same thing; that the title states Pena Hueca with Mata Redonda and the rock being hollow and there being the bush and shrubbery around there that is, a circle in a round frame he understood that Pena Hueca and Mata Redonda was the same thing; that the titles spoke of Pena Hueca but that he did not remember whether they

said "Pena" with holes in it and that in his opinion a hollow thing and a thing with holes in it are the same.

MR. RAMON GARCIA PAREDES, the second witness called in behalf of the plaintiff, after being duly sworn, testified as follows:

That his name was Ramon Garcia Paredes; that he was a resident of Panama, fifty-four years of age; that he had lived almost all his life with the exception of six or eight years outside of Panama; that he knew the estate of Lo de Caceres which is located on the Sabanas; that he had lived on the Lo de Caceres property many times, about three months a year in the summer season; that the property had belonged to his family and also to him; that he was familiar with the title deeds; that the estate of Lo de Caceres was obtained by his grandfather in 1832; that he himself had had knowledge of Lo de Caceres ever since he had obtained the age of reason which was about forty years, more or less; that he remembered some of the boundary lines of Lo de Caceres; that he remembers the boundary line of the part in dispute at present is from Mata Redonda in a straight line to Mocambo; that the Pena Hueca is near the ruins of the old chapel dating from time immemorial, indicated by the point marked "X" on the map; that he had known the point known as "Pena Hueca" or "Mata Redonda" for fifteen or 16 years; that he had the property in charge from the time that his father died in 1889 up to when it was sold to Mr. Diaz and that in spite of the
360 fact that his mother sold it at public auction that he was in charge of it; that his father was in charge up to 1889; that the Pena Hueca or Mata Redonda is a large round rock, level, and has holes in

certain points, and that there are some bushes extending around the rock; that it is a large rock almost half the size of the Court room; that he knows the creek called Quebrada Platanar which is quite near to this place; that he had been to the Rio Hondo several times; that the lower part of the Rio Hondo is within the estate of Lo de Caceres; that when his father died that there was a dairy business there and that he continued that business; that they had stock there; that the house his father had was not finished and that he finished it and attended to all matters in connection with the property; that the cattle were kept running loose all over the place; that he kept his cattle on the property that was both in the Republic of Panama and the Canal Zone; that he had had several conferences with regard to controversies that they had with Mr. Patterson and that letters had passed between them and that he had brought about an agreement but it could never be arrived at; that Mr. Patterson had claimed that another point was the Pena Hueca; that at this point claimed by Mr. Patterson to be the Pena Hueca there was another stone within the bush but the rock did not have any holes; that he was not certain but believed that that rock was on the eastern side of the Rio Hondo; that his mother sold the property at auction in 1895; that he had breakfasted with Mr. Patterson at the point marked "X" where he had a house; with Mr. Patterson, senior, and with his wife and son who was then about ten or twelve years old; that the house that Mr. Patterson had then near the point marked "X" on the map was outside of the estate of Lo de Caceres; that Mr. Patterson lived there during the summer season; that later Mr. Patterson come down and built a house below that place within the estate of Lo de Caceres; that he did not have a lawsuit with Mr. Patterson as they were always on friend-

ly terms; that his mother was a god-mother of
361 Mr. Patterson's and they did not care to have any dispute about it; that he did not know how long Mr. Patterson occupied the house within the estate of Lo de Caceres because it disappeared from there and went out of existence and that he thought Mr. Patterson had removed it to another place; that he understood that he put it in the same estate of Lo de Caceres; that he had no idea how long that house remained there; that the house also disappeared; that he many times brought notice of the fact to Mr. Patterson that he was encrouching and tried to arrange it amicably out of consideration for my mother; that we tried to place a provisional boundary line; that the persons who squatted on the property claimed that they had permission from Mr. Patterson and Mr. Patterson stated that they had to get permission from him to do so; that they stated then that they had permission from his family; that some squatters were there without any permission from anybody; that he had a man in charge who collected rent and that the people paid in vegetables to his mother; that some of them paid rent in that manner.

Cross Examination.

That he is not related to Mr. Diaz but that his wife is, she is dead and that she was Mr. Diaz's first cousin, that he had been the owner of Lo de Caceres some time ago; that he was one of the heirs when his father died; that from 1889 when his father died to about up to the time that the property was sold at a sheriff's auction in 1895, he was one of the owners; that he was not the only owner, that they were a number of them; that he held himself out as one of the co-owners from the time his father died; that he could not deny that

he was one of the co-owners from the time of his father's death as to do so would be a falsehood; that in accordance with a sworn declaration made before a Court in Panama on April 3, 1914, he stated that he was not a co-owner of the property of Lo de Caceres; that probably it was sold in 1914; and that from the date
362 of the sale he could not have been one of the co-owners; that the statement signed by the witness, marked defendant's exhibit "A" reads as follows:

"Ramon Garcia de Paredes appeared in the office of the First Municipal Court, today the third day of April, 1914, with the object of giving a statement which is solicited of him in the foregoing memorial."

"Being duly sworn by the Judge according to the form established by law, offered to say the truth in all that he knows and that will be asked of him, and in order to identify his person, says, that his name is as above stated, of age, Panamanian, widower, merchant, Catholic, and a resident of this City. Being interrogated in conformity with the first point of the interrogatory, he answered: That he knows a hollow rock surrounded by a round bush that Mr. Patterson has always considered as the boundary of the hacienda Mata Redonda. To the second question he answered: That it is near the road from the house of Mr. Patterson. To the third, he answered: That he knows that his mother, Dona Catalina Lewis viuda de Garcia de Paredes, then the owner of the estate of Lo de Caceres, sold to Mr. Adolfo Aleman the second section of La Gloria, and that on account of Lo de Caceres belonging to his mother, he was not a co-owner thereof. So terminated this declaration, and

it was received from the witness in accordance with the decisions of Article 633 of the Judicial Code.

Signed, The Judge.

The declarant, (Signed R. GARCIA PAREDES; The Secretary (Signed) AGUILAR."

(Witness continuing): That he frequently had conferences and disputes with Mr. Patterson with reference to the boundary but never arrived at an amicable settlement with him; that possibly he had written a letter to Mr. Patterson proposing a provisional arrangement
363 but he thought Mr. Patterson never agreed to it because he never wrote about it; that he recognized his signature to a letter addressed by him to Mr. Guillermo Patterson under date of August 3, 1891, the same being introduced in evidence as defendant's exhibit "B", the letter marked exhibit "B", being as follows:

"Panama, 3rd of August, 1891.

"Mr. Guillermo Patterson,
Mata Redonda.

"Dear Guillermo:

"I have received your note. I regretted not having been able to go there yesterday as I offered you to do, but the steamer which should have been dispatched on Saturday, was not dispatched until yesterday at noon.

"I have no objection to having the rocks made that you desire, nor that you put the inscription on the Pena Hueca. As to the first I believe that they can be placed on one side "Mata Redonda" and on the other side "Lo de Caceres"; the cost of the last inscription I will pay.

"I do not know if it will be possible for me to go there one week day, one working day, but in case of being able to do so, I will advise you in due time.

"Hope you are in good health,

Your affectionate friend and
obedient servant,
R. G. de PAREDES LEWIS."

(Witness continuing): That he wrote the above letter; that it was a provisional offer but that he did not say that it was provisional; that he did not say in the letter in which Pena Hueca or rock the inscription was to be placed, whether on the one above or below; that he did not state on which side it was to be placed; that he stated that he would go there on some week day or Sunday and did not state when; that he proposed a provisional agreement but never came to one; that he was talking about the upper Pena Hueca and not the lower one, and that he stated that they would mark
364 on one side Lo de Caceres and on the other Mata Redonda and that they would go there some day and place it on the property; that he was in the house of Mr. Patterson which is above the Pena Hueca in 1894 or 1895; that he had never measured the lines up there and did not know distances; that he was there with his father who showed him a hollow rock which he said was the Pena Hueca and that afterwards he was there with the son who showed him the hollow rock which he claimed was the Pena Hueca; that he does not know were Mr. Patterson lived in 1914; that he did not remember what he testified to in 1914 because did not see what he answered; that he didn't have anything to do with the question; that he answered in 1914 and so did not swear that there were two Pena Huecas; that las Garibaldi was one of the persons who paid

rent to his mother for the property and another man in the Court room with a blue shirt named Felipe Fernandez and another little man called Jose Diaz.

EDUARDO ICAZA, the third witness called on behalf of the plaintiff, being first duly sworn, testified as follows:

That his name is Eduardo Icaza; that he is 60 years of age and lived in Panama and had lived there all his life and was acquainted with part of the estate of Lo de Caceres, and that he also knew certain of the lands in the neighborhood adjoining Lo de Caceres such as Club X, Hato Pintado, Espave, Carrasquilla, Pan de Azucar, San Jose, Mata Redonda; that he likewise knew the lands of San Jose, belonging to the Arosemena family; that he knew a certain rock known as Mata Redonda or Pena Hueca; that it was on the western side of the Rio Hondo and near the ruins of the chapel that used to be there, indicating upon the map the point marked "X"; that he had been on the place many times, the first time being about fifty years ago when he was a little boy; that he saw the chapel then and wanted to know who was the owner of it; that he first
365 knew the place was called Pena Hueca in 1894 or 1895 when he went out there and put some stones at the headwaters of the Rio Hondo and Quebrada Platanar; that he went there with his father and Juan Navarro's father; that his father indicated the place to him as Pena Hueca; that no land mark was placed in that immediate neighborhood but one was put at the headwaters of the Rio Hondo and one at a small creek in the field named Platanar; that later many other persons indicated the place as being Pena Hueca (indicating the point marked "X" on the map); that the

people in the neighborhood so considered it; that he knew where the house of Corsino Arauz was located as it was on the left hand side of the ruins of the old chapel, that being the house he went to with his father when a little boy, being located on the estate of Lo de Caceres; that he knew where the Paso Real of the Rio Hondo was (indicating the point marked "D" on the map, as plaintiff's exhibit 17); that the Paso Real is the crossing of the River, same being the Corundu River that comes near to Panama and passes down near Balboa, and the old Corozal road crosses the old Spanish bridge; that it was necessary in going from the city to Pena Hueca to cross the Paso Real but that the river could be crossed at another pass as there were many other passes; that if the Pena Hueca were on the eastern side of the Rio Hondo it would not have been necessary to cross the river in order to get there; that he was acquainted with the delimitation proceedings between San Jose and Mata Redonda and Pan de Azucar; that it was not necessary to ascertain the location of Pena Hueca is these delimitation proceedings but only the headwaters of the Platanar Creek.

Cross Examination.

That there is another crossing of the Rio Hondo called La Puente; that it was not known as the Ancient Pass; that the Royal Pass was higher up; that the
366 present Royal Pass is never dry over the Rio Hondo and that La Puente was further down—about 200 to 250 meters; that La Puente was there for a long time, and there were many crossings there; that Paso Real was the older crossing, and that the other is called La Puente because there is a rock that comes from one side of the river to the other, and the waters

of the river go underneath; that La Puente has always been there and was not constructed by man; that the other is merely a ford; that Mr. Carlos Ycaza Arosemena was his father; that he was the owner of the lands of San Jose and Vista Hermosa but that when he went there with him he was not the owner of Vista Hermosa but bought it later in 1882; that the Pena Hueca to which he referred was on the western side of the Rio Hondo and had been there for a great many years; that public sale of the lands of Lo de Caceres took place in 1895 and that the Paredes family published, or had the Court publish judicially a notice of the sale of these lands; that his father on account of the fact that there was a revolution published in the official paper at that time a protest against the annexation of a certain portion of the land; that he was positive that the Pena Hueca to which he refers is west of the Rio Hondo, and is on the lands of Mata Redonda; that San Jose has a boundary line with Lo de Caceres on the north from the headwaters of the Platanar Creek to the headwaters of the Rio Hondo; that even though none of the lands of Lo de Caceres were on the west of the Rio Hondo the Pena Hueca which is indicated as the letter "X" on the map could be located where it is indicated; that Lo de Caceres does not cross the road but runs to the headwaters of the Rio Hondo; that a small portion of Lo de Caceres would lie west of the Rio Hondo; that from the rock the western part of Rio Hondo belongs to San Jose and not to Lo de Caceres; that Pena Hueca is west of the Rio Hondo and all the points on the map marked "X", "Y" and "Z"

367 are west of the Rio Hondo; that his father published that there were no lands on the western side of the Rio Hondo; that he had not known any other Pena Hueca; that the copy of the

notice marked defendant's exhibit "C" was published by his father in 1895 on account of the fact there was a revolution and there could be no litigation at that time; that his father was thoroughly familiar with the boundary lines of his own property of San Jose.

Re-Direct Examination.

That in publishing the notice quoted as defendant's exhibit "C" it was representing Club X; that the statement that Lo de Caceres had no lands whatever to the west of the Rio Hondo, meant that it had no lands on the west; that his father did not interfere with the boundaries of Lo de Caceres, but only claimed his own boundary line; that he was not defending Lo de Caceres but was defining San Jose which had been delimited by the Court before hand, with Pan de Azucar and Mata Redonda, and that they placed boundary stones, one at the head of the Rio Hondo and one at the headwaters of the Platanar Creek; that in 1882 the boundary lines of Mata Redonda became determined; that Mr. Patterson indicated to him a Pena Hueca on the other side of the place at the point marked "O" on the map; that he showed him that about two or three months ago or in January of this year; that the first time he went to the ruins of the old chapel he did not pass by the same road as he did this time, but came through Pan de Azucar; that the place that Mr. Patterson showed him as being Pena Hueca at the time he first went to the chapel, was an open field and there were no bushes there.

Re-Cross Examination.

That he does not know Ata Viejo by that name but that it is near where the chapel was; that the chapel

368 and what he claims to be Pena Hueca are near the place called Ata Viejo; that there are some ruins there; that he is not a relative of Mr. Diaz, but that Mr. Diaz's grand-mother was a counsin of his father.

DOMINGO DIAZ, one of the plaintiffs, being called as the fourth witness in his own behalf, stated as follows:

That his name is Domingo Diaz A; that he lived in the City of Panama and was 43 years of age; that he had lived all his life in Panama except some time that he had been in the States and Europe; that he knew the estate of Lo de Caceres as he acquired it in 1909—the nine portions divided between the differents sons and daughters of Catalina Lewis de Garcia de Paredes; that those portions constituted the entire estate of Lo de Caceres; that a portion of the old estate was sold by Catalina Lewis de Garcia de Paredes to others, and a portion of the ancient estate was sold to Bernando Arze Mata and is the property represented by Don Eduardo Icaza, known as Club X; that that portion of the property is closer to Panama City and there was another two small portions sold to Adolfo Aleman called "La Gloria" in the middle of the estate of Lo de Caceres; that there was a section also that belonged to the heirs of Jose Garcia de Paredes which he bought in order to have the entire estate of Lo de Caceres less "La Gloria" and "Club X"; that he is familiar with the boundary lines of Lo de Caceres; that it bounds on the western side with Mata Redonda; that he has established the title deeds of the two estates; that the deed marked plaintiff's exhibit "3" states that

the boundary lines of Lo de Caceres and Mata Redonda is a straight line from Mocambo to Mata Redonda; that Mocambo is a point marked "J" on the map; that Mata Redonda is the place marked "X" on the map and that he knows it is Mata Redonda because he has spoken personally with Carsino Arauz, who was the
369 owner of Mata Redonda from 1871 to 1876; that he had seen with his own eyes the Mata Redonda, the hollow rock and the ruins of the old chapel on the property and that he was ready to prove that the Mata Redonda could not be at the point marked "O"; that the Mata Redonda is a stone about half the size of the Court room and is round and with holes on the superficial part and bush grows all around it; it is like the head of a bald man; that if you stand in the middle of the Pena Hueca and turn around you make a circle, and that bushes grow all around it and have been growing in the life of man; that it would always be round unless they destroy the Pena Hueca; that all the ancients in the days that he had known called it Mata Redonda; that he knows the other place called by Mr. Patterson Mata Redonda and it is at the place marked "O" on the map, on the side of the Rio Hondo towards Panama; that he had seen the bush there claimed by Mr. Patterson to be the Mata Redonda; that it is a place with plenty of big stones, not one; but plenty of big stones, and some on top of the other, and all the surrounding bushes are near the stone; that the stones are all different size but the biggest may be more or less the size of the desk (indicating the desk of the Court); that the other Mata Redonda at the place marked "X" on the map is about half the size of the Court room; that you can ride to the top of it with a horse; that he has been on the top of it on horseback; that it is necessary in going to the Pena Hueca marked "X" on the map to

cross the Rio Hondo; that the Mata Redonda to which Mr. Patterson refers at the point marked "O" is on the right hand side or eastern side of the Rio Hondo; that in order to go to the Pena Hueca indicated by Mr. Patterson it is not necessary to cross the Rio Hondo; that he knows the boundary lines of the estate of San Jose; that one goes from the City of Panama to Mata Redonda on the road indicated on the map as Camino de Mata Redonda crossing the Rio Hondo at a place called Paso Real marked on the map as "D"; that to
370 go to the Pena Hueca indicated by Mr. Patterson it is not necessary to cross the Rio Hondo; that you can cross it in another place; that in very ancient times from the estate of Pan de Azucar there was another road to go to Mata Redonda, through the Pan de Azucar estate; that he had been all the time in charge of the estate of Lo de Caceres except about ten months when he was in Europe; that he had tried to collect the rents from two or three persons that he had there but that it had been very hard for him to do so, that he had many agents there, one was Richard Jones, a Jamacian who lived in Pueblo Nuevo, Sabanas, he used to try to collect whatever he could; that he later had a former Zone policeman named Ponton and also a man named Aguilar, and Jaen, and another Jamaican and that he had given these collectors right to collect for a certain sum all that they could and to put out the people that refused to pay; that he had the title deeds registered when he bought the property, which was 15 to 20 days after each purchase; that when he bought the property of Lo de Caceres in the Canal Zone he bought a dispute there as there had been always a dispute between Mr. Patterson and the Paredes family; that he knew there was a dispute between Patterson and the Paredes family at the time he bought it, as

Mr. Patterson claimed that the Mata Redonda was at the point marked "O" and the Paredes family claimed it was at the old chapel; that he had had conferences with Mr. Patterson over the matter several times in the nature of friendly arguments to settle the question of boundaries; that the first time he had one was a couple of months after he had bought it in 1910; that from that time up to 1916, or 1915, he had continued these conferences; that in 1915 the dispute was put to arbitration, the arbitrator on Mr. Patterson's part being Mr. Juan Brin, and on witness' part Mr. Robert B. de O'Barrio; that the arbitrators did not agree and that they appointed Dr. Ciro L. Urriola, Vice President of the Republic; that after he found out that it
371 was impossible to come to an argeement with Mr. Patterson he placed the matter in the hands of his attorney Mr. Arias, who wrote several letters to Mr. Patterson to see if he could agree with him.

FLORENCIO HARMODIO AROSEMENA, the fifth witness called on behalf of the plaintiff, being first duly sworn, testified as follows:

That his name is Florencio Harmodio Arosemena, a civil engineer, 46 years of age; that he graduated in Munich, Bavaria, in 1893, and that since that time he first worked for the German Government, then for the Ecuadorian Government as Engineer of the Railroad; that he stayed there about six years and was later Chief Engineer for the Republic of Panama, and later went into the contract business in which he is still engaged; that he had been doing surveying work for the United Fruit Company; that he knew the estate of Lo de Caceres as he had been upon it about three months ago;

that he knew the place called Pena Hueca; that he was appointed by the First Circuit Court Judge in Panama as expert in the case between Mr. Patterson and Mr. Diaz; that it was in connection with that work that he went there; that he went to the place known as Mata Redonda; that it is the point marked "X" on the map; that he arrived at the conclusion that it was Mata Redonda from reading the titles that he had before him; that he had been expert for several cases in Panama—appointed by the Courts of Panama, but not by the Canal Zone Courts; that he had been obliged to read over several titles in connection with his appoinment; that he found one title in which it was asserted that the Mata Redonda was not on the same side as the City of Panama from the River Hondo, or in other words, that he saw in one deed that to go to Mata Redonda from the City of Panama that you had to cross the Rio Hondo.

372 Here the defendant objected and moved that the answer be stricken unless the deed concerning which the witness testified could be produced in evidence, which objection being overruled, the defendant, by counsel, duly noted his exception.

(Witness continuing): That there was another deed that said that to go from Panama to Mata Redonda it was necessary to cross the Rio Hondo, so it was clear that they were not on the same side of the river; that there were two places indicated as Mata Redonda—one at the point marked "X" as claimed by Diaz and one at the point marked "O" as claimed by Patterson; that in view of the fact that he saw in the deed that they were on different sides of the river he thought that the point marked "X" on the map was

the Mata Redonda; that he had another reason for thinking so, and that was that he had seen the first deeds of Mata Redonda describing the property and which said that starting from Mata Redonda to the headwaters of the Rio Cardenas and then going down the river until you find the Palangana Creek; then from the Palangana Creek down to a rock creek and going to the starting place; that in order to close the polygonal it was necessary to place the Mata Redonda at the point marked "X"; that if the Mata Redonda was at any other place there would be a continuity of the polygonal and the boundary line would not close; that he had been to the Pena Hueca and Mata Redonda two times, three months ago; that it was a big rock surrounded by bush; that he examined the other Mata Redonda claimed by Mr. Patterson to be the real one, and found it to be a small rock which did not have anything to justify the name of a hole; that he found small holes but none of importance; that he found plenty of holes in the Pena Hueca close to the chapel.

373 Cross Examination.

That he had only been to that place three months before; that prior to his studying it three months before that he knew nothing about the boundaries; that the deed to which he referred of 1826 which formed the basis for his second reason for describing Pela Hueca to be at the point marked "X" on the map was a deed of the San Jose Property and not a deed of the property of Mata Redonda; that there used to be a house close to the point claimed by Mr. Patterson to be Mata Redonda; that there was evidence of ruins of an old house there and road ran close to the place; that the words Mata Redonda were carved in the rock at that place

that Mr. Patterson claimed to be Mata Redonda; that he should say that this carving was about fifteen years old; but that he did not think it would be 30, although it would be very difficult to say; that he did not examine the carving closely.

Re-Direct Examination.

That there were ruins of houses near the place marked "X" on the map besides the ruins of the chapel; that he could not say what it was as there was some very old wood there; that he found some holes in the floor indicating the existence of boilers, and roofing; that the chapel was on the Mata Redonda side and the house also; that the deed to which he referred concerning the description that it followed could not close the polygonal unless the Mata Redonda was located at the point marked "X" which description is as follows:

"The boundary lines of this land are based by our ancestors on a Crown grant and were said to be, on the lower part, from the Mata Redonda up to the midst of the River Cardenas, including its headwaters and springs, down stream to the junction of the Palangana stream and then seeking a creek with a rocky bed which crosses the Papaya field."

374 (Witness continuing): That starting from Mata Redonda and going up the Cardenas, to the headwaters of it, and then down to the Palangana, and then seeking the rocky creek; they stop the description there, which means that the boundary stops there, and the starting point must be the point marked "X"; that the headwaters of the Platanar are close to the Pena Hueca; that the boundary of the ancient deed to which he refers reads as follows:

"That the boundary of these lands as possessed by the ancestors, were (said) to be, on the lower part: from the Mata Redonda, up to the limits of the Rio Cardenas, including its headwaters and springs; down stream, to the junction of the Palangana stream and then seeking a creek with a rocky bed which crosses the Papaya field, and on the upper part to the furtherest boundaries called Mocambo."

That this was the Crown grant of 1695.

Re-Cross Examination.

That he is familiar with the two properties known as Lo de Caceres and Mata Redonda; that the creek marked on the map at Platanar is the Platanar; that he cannot say whether or not there is another creek named Platanar with a stony bed that does not stop but runs in the direction of the point marked "O" still further up; that he is not prepared to deny that; that closing the polygonal from the description read to him by the attorney for the plaintiff can be done but that he did not take into consideration the rest of the description of the deed about the upper part from the hill called ..... blank ..... to the furtherest boundaries of the Mocambo; that the Pena Hueca is a hill adjoining a house and that there is a big hill at the point marked "O" on the map; that the hill called "Gallinazo" is not shown on the map but that it is not from the Algarrobo; that he indicates the point called "Gallinazo" with a circle with a cross through it on the writing on the map, the place designated by him; that the Gallinazo hill is not mentioned in this deed as the name is torn; that he finds the Gallinazo hill is the point marked with the circle and the cross, not

far from the Algarrobo; that he studied all the deeds of Mata Redonda that were presented to him; that he did not read the Mata Redonda deed of 1854 following the Crown grant; that he studied the Crown grant as he considered it the most important one; that the Cardenas was close up to Mocambo, and that there were two headwaters; that thence it went to the point marked "J" on the map and thence to the point marked "Q" and thence to a point indicated as Mocambo; that in continuing this description it would not be a straight line; that he will admit that his description does not follow the one in the deed of 1854 and that the Gallinazo Hill as referred to in the deed of 1695 is not shown and is not at the point marked "O", but that the hill they are talking about is the one close to the Pena Hueca.

MANUEL MARIA MENDEZ, the sixth witness called on behalf of the plaintiff, after being duly sworn, testified as follows:

That his name is Manuel Maria Mendez, 67 years of ago, a resident of Panama since the date of his birth; that he knew the lands of Lo de Caceres as he had a house there for over 30 years; that he is not familiar with the boundary lines of the estate but only heard that they were from Mata Redonda, Pena Hueca, to Mocambo, and this and that but he never took any interest in boundary disputes; that he knew the location of Mata Redonda and Mocambo as he was there once, twice or three times in 1877 or '78 when he went there because Mr. William de Roux was a friend of the Cuban,
Mr. Zayas Batiste, who was married to his
376 aunt and whose daughter became his wife afterwards; that he was a very good friend of the

Cubans and Zayas Batiste was a Cuban; that Zayas Batiste was the owner of Mata Redonda then and they invited Mr. De Roux and himself and some Panamanians to go to Mata Redonda. And one Sunday they started over; and it was the first time they got there; that it was the in 1878 or 1877; that the same day they visited the Mata Redonda or Pena Hueca and admired the big stone there, with big holes, about two feet in width and with bush growing around it, and they inquired if it was the Mata Redonda; that there was an old building in ruins and a small chapel in ruins; that in the old building Mr. Zayas Batiste made two small rooms for his quarters where he used to live with his family and they only had one shed where they kept cows, pigs, guinea pigs and pens; that it was 50 feet more or less from the Pena Hueca as he cannot remember the exact distance, and also close to the ruins of the old chapel; that this place where he met Zayas Batiste was located next to the ruins; that they were at the point marked "X" on the map; that during the 30 years he had lived on Lo de Caceres another place had the reputation of being Mata Redonda as his uncle Ramon Garcia de Paredes said he had some contention with Mr. Zayas but he does not recall where it was, and that he saw the new house there built outside of the Mata Redonda in the plains; that it did not remain there very long but that he thought they made him take it away; that in order to go to the Mata Redonda it is necessary to cross the Rio Hondo going from the City of Panama; that he does not know where the other Mata Redonda is.

Cross Examination.

That he does not recall any old crossing of the Rio Hondo, but there certainly ought to be a road to go

across; that he does not remember a place called "La Puente" as he does not know much around there
377 as he had no interest there; that he had not paid any great amount of attention to any of the matters in dispute; that he always heard there was a fight among these individuals.

TIBURCIO HERRERA, the seventh witness called on behalf of the plaintiff, after being first duly sworn, testified as follows:

That his name is Tiburcio Herrera, 62 years of age, a resident of the Sabanas near the City of Panama; that he knows the place known as Lo de Caceres as he has lived in the neighborhood and on the estate for 30 years; that he knew Domingo Diaz and the place known as Mata Redonda or Pena Hueca; that he could indicate where it is; that he knew the ruins of an old chapel; that the Pena Hueca is near the old chapel right alongside of it; that it was necessary to cross the Rio Hondo to go from Panama to Mata Redonda; that he had met Zayas Batiste and knew him for more than 20 years, having worked for him at the chapel of Pena Hueca and Mata Redonda as he built the house there for him by the chapel; that Zayas Batiste was a Cuban who had a dairy there; that a man named Domingo, a Cuban, working for Mr. Duque built the house near the chapel and that he, the witness, carried the materials; that the house was for Mr. Zayas Batiste; that he knew Mr. Giullermo Patterson but never worked for him; that he had a plantation in the neighborhood of the Rio Hondo about 25 years ago on this side of the river; that Mr. Ramon Garcia de Paredes gave him permission to cultivate there and he remained there for four years; that

there was another Mata Redonda out there in the Sabanas that was not the Mata Redonda; that the late Zayas claimed that it was the Mata Redonda; that when Guillermo Patterson purchased he said that the other was the Mata Redonda; that Zayas Batiste was the
378 owner of the place Mata Redonda; that he knew Zayas Batiste 20 years; that he paid rent for his cultivation on Lo de Caceres to Don Ramon Garcia de Paredes and to Dona Catalina, his wife, upon his death.

Cross Examination.

That he first met Zayas Batiste many years ago, having known him for 20 years; that he was not out there all the time; that he carried the lumber for the house by the chapel; that he did not live the full 20 years alongside the rock but for some time; that he was living there and went away and came back; that for a time he lived there and then for a time he lived here in Panama but not for a long period; that when he lived out there he retained the ownership of Mata Redonda and went out to the place near the chapel; that he lived there all the time; that he never had any trouble with Mr. Patterson senior; that he lived and worked on Mata Redonda; that he never had a house on this side of the Porto Bello—Lucha Franco Road; but that he had a finca there; that he paid rent to Ramon Garcia de Paredes; that he never paid rent to Guillermo Patterson; that Mr. Patterson never had him evicted from the lands on account of nonpayment of rent.

ESPIRITU SANTO QUIJADA, the eighth witness called on behalf of the plaintiff, being first duly sworn, testified as follows:

That his name was Espiritu Santo Quijada, 54 years of age, living in Ata; that he had lived in the vicinity of Lo de Caceres alongside the property; that he knew Mr. Zayas Batiste when he lived at the chapel of Mata Redonda; that he worked for him making some fences on the north side of the house near the chapel; that he knew the Pena Hueca or Mata Redonda through Mr. Zayas Batiste; that it was near the chapel; that
379 it was necessary to cross the Rio Hondo to go to that Mata Redonda; that he has had cultivations near the banks of the Rio Hondo on this side for three years; that it was about 100 meters from the Rio Hondo; that he paid rent to Don Ramon Garcia de Paredes but to no one else; that he had his cultivations after the death of Ramon Garcia de Paredes but never paid rent to anyone; that he worked for Guillermo Patterson building fences, sowing grass and pasture lands; that these fences were alongside the chapel.

Cross Examination.

That he knew a man named Poylo Trejo; that he worked with him making a fence; that the fence was in the lands of Lo de Caceres; that he never saw him build a fence from the old Paso Real to the Mata Redonda road; that the fence he saw was already made by Mr. Aleman along there; that he did not close any road; that he worked under Mr. Aleman for nine years; that he cut down 10 or 12 of the Mata Redondas around the rock claimed by Mr. Patterson to be the Mata Redonda; that he, the witness, built the fence from Santa Josefina to

connect with the Mata Redonda fence of Mr. Patterson, but that he did not close any road; that the fence did not close the road because the road that was there was destroyed; that he knew a place called Rincon Escondido and that a man named Majagual lived there; that it was not a regular highway crossing the old Paso going to the house of Majagual, but a trail and he closed that; that this trail was closed by the construction of the fence that he built from Santa Josefina to the place and that he closed it under the orders of Mr. Aleman.

380 JUAN NAVARRO, the ninth witness called on behalf of the plaintiff, being first duly sworn, testified as follows:

That his name was Juan Navarro, 38 years of age, a resident of Panama practically all his life; that he knew Lo de Caceres as he had been there many times and had lived there since 1904; that he married the daughter of Mrs. Otilde Paredes de Arosemena, who was the daughter of Mrs. Catalina Garcia de Paredes who was the owner of the estate of Lo de Caceres from 1895 when she bought it at a judicial sale and that later she sold 1/9th to her daughter who was the witness' mother-in-law; that when he went to live there his mother-in-law and Mrs. Catalina Garcia de Paredes asked him to help in the collection of the rents from the tenants who were on the estate; that he built some fences under the authority of the ladies mentioned for his own benefit and private use; that several of the tenants who were living on Lo de Caceres he could point out in the Court room, among them was Blas Garibaldi who had a house back of where Mrs. Paredes had her house and his plantations were around the side towards Mata Redonda; that some

of them were located on the eastern and some on the western side of Rio Hondo; that he could not tell the particular place where Blas Garibaldi had his cultivations; that Alejo Villareal and Concepcion Diaz were two others; that they all came over and paid rent to Mrs. Paredes; that he was present when they paid; that Pablo Ariza and Francisco Jaen were also tenants, one of whom had his land on the side of the Algarrobo and another one named Felipo Fernandez who was living some distance back of the house of Mrs. Catalina Garcia de Paredes, and he used to cultivate lands on the surrounding parts towards the Mata Redonda, close to the Rio Hondo; that all of them were in the Court and that he knew many others too; that when he was at the house he used to ask the tenants to come over on behalf of Mrs. Catalina Lewis de Paredes, and
381 they would come sometimes and pay her, sometimes in money and sometimes in provision and that he knew Liborio Ariza who used to pay rent about 1904 as he asked him to be god-father to his child; that he knew nothing about prior to 1904; that he knew the boundary marks between the estates of Lo de Caceres and Mata Redonda, known as Mata Redonda or Pena Hueca; that he was at this place in 1894 with his father Juan Navarro was established in the estate of San Jose which bounds with Lo de Caceres and Mata Redonda; that he was 14 years old then and Carlos Icaza Arosemena who was the owner of the estate of San Jose had authorized his father to establish himself there in the cattle business and that he remembered going over to Mata Redonda to place a stone at the headwaters of the Quebrada Platanar; that on that occasion the people who went to place the stone monument were Dr. Carlos Icaza Arosemena, his father, Eduardo Icaza, and Guillermo Patterson, Sr; that he has a good memory and was

about 14 years old; that Mr. Guillermo Patterson, defendant in the present suit was present then; that the stone was to fix the headwaters of the creek El Platanar; that the location of the stone was close to the Mata Redonda or Pena Hueca at the point marked "X" on the map; that nearby were the ruins of an old chapel and also a brick house close to the Pena Hueca; that he does not remember that any one was living there at the time; that the place called the Pena Hueca was a large round hollow stone with holes in the surface; with the bush according to the circular form of the stone was also round and he gathers that this is the reason the name was given to it; that coming from Panama City towards the Mata Redonda it is necessary to cross the Rio Hondo; that he heard that the stone had been removed; that it was a common stone about 3 or 4 feet long, set in the ground, and it had a mark of San Jose on one side and Mata Redonda on the other; that he had not been to the spot to see whether the stone was there or not; that some three months ago he heard that another
382 place had been called Mata Redonda by Mr. Patterson; that the place called Mata Redonda by Mr. Patterson was on the side of the Rio Hondo towards the City of Panama, on this side of the river.

Cross Examination.

That prior to 1904 he had been to the place but not to live there and the occasion for his going there prior to 1904 was that his father was established in San Jose by its owner Mr. Carlos Icaza Arosemena and he accompanied Mr. Arosemena to place a stone at the headwaters of that creek, with the notation, to fix the boundary between San Jose and Mata Redonda on that side; that his father was established in San Jose, where we lived

for almost 20 years and that he himself went through the estates of Lo de Caceres and also of Mata Redonda, and many other estates around there; that he was living out there on the property of San Jose at the time to which he refers; that he did not live in Lo de Caceres prior to 1904; that he lived in San Jose which was adjoining; that Domingo Diaz was his cousin and that Mr. Adolfo Aleman who also had trouble in this matter was his uncle; that the people to whom he referred paid rent from 1904 up to 1909 when the estate was sold to Mr. Domingo Diaz; that he did not collect rent but he had helped Mrs. Catalina de Paredes to do so; that she had several sons and that they helped her, but that when they married they lived elsewhere and when he went to live there he helped collect the rents at the request of Mrs. Paredes; and he knows of his own knowledge that these people did pay rent.

383 VALENTINE E. BRUNO, the tenth witness called on behalf of the plaintiff, after being first duly sworn, testified as follows:

That his name is Valentine E. Bruno, 36 years of age, and an attorney practicing in the Canal Zone Courts, living on the Isthmus 11 years; that he was former Secretary and Treasurer of the Municipal District of Ancon from February, 1904, to February, 1909; that he is familiar with the estate of Lo de Caceres as he has been there several times, having been there first in 1905 when he was Secretary-Treasurer of the District of Ancon, and Doctor Rafael Neira was Mayor of the District; that it was their joint duty to prepare the tax list for the fiscal year and in order to know the properties they went upon each property within their district and early in

1905 began to prepare a list of property owners; that in that connection he visited Lo de Caceres as it was necessary for him to do so in order to stake these properties out; that he then visited the place known as Mata Redonda or Pena Hueca; that in 1912 he was interested in the tract of Adolfo Aleman as attorney for him; that all the attorneys made an ocular inspection of the property on the spot; that prior to that he had been familiar with the place, that is with the La Gloria estate for which he was attorney; that they crossed the Rio Hondo at the point marked "D" on the map and went to a large, blackish, hollow rock that was pointed out as the Pena Hueca; that that was in 1905; that he went again in 1912; that one of the land marks was indicated at the point marked "X" as the boundaries of the estate of Mata Redonda and Lo de Caceres; that the estate of Mata Redonda belonged to Mr. Patterson, and Lo de Caceres to Mr. Diaz, deceased; that they were shown the ruins of the old chapel a little distance from the rock which was the actual boundary line which divided the property; that he recalled from testimony that there was a sort of triangle there and there were a few candles there burning, which at that time was very in-
384 teresting to them; that the Pena Hueca was the point marked "X"; that the walls of the Church are very distinct, the trees have grown right in, but the walls are still distinct; that the general impression was that the point marked "X" was the Mata Redonda and Doctor Neira seemed to be very familiar with that part of the country but notwithstanding he took information from various property owners like the Paredes family and several other families; that he spent five days there; that the better class of property owners as well as the peons all pointed to that chapel as the Pena Hueca; that it was pointed out as one of the boundaries between Lo

de Caceres and Mata Redonda; that he recalls where the Paso Real of the Rio Hondo was; that he recalls it as in passing they took the trail of Paso Real to the La Gloria estate, up to a point marked "D"; that in 1912 they went there again; that it was then established that Pena Hueca was the point marked "X"; that delimitation proceedings were instituted at the instance of Narciso Garay to have the various adjoining properties well demarked so that he would know where the estate of Pan de Azucar was, of which he had the general power of attorney for the owners; the Hurtado family; that he brought the suit and all the adjoining owners were notified and he was retained by Adolfo Aleman, as he was one of the contiguous owners, and he believed Mr. Manuel Icaza, who recently died, to look after their interests; that Pedro Diaz represented himself; that he also represented Mr. Domingo Diaz, and that Mr. Arias, the attorney for the plaintiff in this case held what was known in England as a "Watching Brief"; that is, he was not directly concerned but as some of the title deeds contained descriptions reading apparently beyond his property, and as the Rio Hondo was one of the principal features of demarkation, it was necessary that he should come in, and he did come in, I think he represented Guillermo Patterson, the defendant in this case; that he went on the ocular inspection with the interested parties; Mr. Patterson; Junior,
385 Domingo Diaz, Juan Navarro, Doctor Arias, Doctor Teran, Mr. Garay, Mr. Jimenez, and Judge Gudger; that they went on horseback and took up the trail and went right up to the Pena Hueca now in dispute; that he remembered that Mr. Patterson showed them a fence and a little trail leading to the Rio Hondo and attempted to point out that as the trail leading to Pena Hueca, forming the boundary line; that

he thought everyone would recall that they dismounted there and went to the rock.

Cross Examination.

That he was attorney for Mr. Aleman, and also for Domingo Diaz; that Mr. Harmodio Arias, the attorney for Domingo Diaz in the instant case, who is now suing Mr. Patterson, had a watching brief for Mr. Patterson; that it was nearly the same kind of a brief that he had for Mr. Diaz; that Mr. Diaz was not directly concerned but had sufficient interest to watch; that he did not recall certain correspondence that took place between Dr. Arias and himself, although there might have been some, and he recalled some correspondence directly with Mr. Patterson; that he recalled a certain letter under date of Ferbuary 12, 1913, that he sent to Mr. Patterson, the same being introduced in evidence as defendant's exhibit "E".

"February 12th, 1913.

Mr. G. Patterson,
Panama, R. P.

Dear Sir:

I am instructed by Messrs. Adolfo Aleman and Domingo Diaz A. to advise you as follows:

1. That the opening of the trail through the former's property, "La Gloria", from a point at the "Rio Hondo" and going in the direction of "Lo de Caceres", is without their authority and sanction.

386 2. That the opening of the said trail, either by yourself or your servants, constitutes an unlawful exercise of ownership and a trespass.

3. That you are doubtless laboring under the mistaken notion that the wire-fencing along which the trail is cut forms the northern boundary of "La Gloria". For your information and guidance, however, I have to advise you that this is not so; the northern boundary of this property is more than 100 meters further north, that is to say along the "Paso Real" and up to the point where it crosses the "Rio Hondo", in accordance with the titles of "Lo de Caceres". The wire fence was, years ago, run by Mr. Adolfo Aleman for the express purpose of keeping his live stock within a convenient area.

4. That the road which you have been using for some time through the properties of "Lo de Caceres" and "La Gloria", also without authority is private property and will be closed at an early date. In this connection I take this opportunity to inform you that I am representing Mr. Domingo Diaz A., along with other Defendants in the delimitation suit known as "'Narciso Garay, et al., vs. Eduardo Icaza, et al.," and I agreed upon a proposed friendly settlement of the boundary lines between "Mata Redonda" and "Lo de Caceres"; your recent acts, however, can only be interpreted as a departure from this proposed agreement, and I may here state that Mr. Diaz is not disposed to countenance any encroachment upon his rights. If it is your desire to cancel your agreement with him please notify me within 10 days from the date of this letter, so that Mr. Diaz may be advised as to what course he may pursue.

In conclusion I have to advise you that any further waste committed in or upon "La Gloria" or any use of the trail already cut will be constructed as a trespass and proceedings will be immediately commenced in defence of my client's rights.

Yours

Hoping to hear from you at your early con-
387 venience.

Yours very respectfully,

(Signed) VALENTINE E. BRUNO,
Atty. for Messrs. Aleman & Diaz."

(Witness continuing): That at that time he was attorney for Mr. Domingo Diaz in any dispute that he may have had with Mr. Patterson; that at present he is a witness in the same suit; that he recalled having received an answer to the letter marked "E", but could not swear whether it was from Doctor Arias or from Mr. Patterson direct; that he recalls vividly the reply as follows:

"In so far as your communication refers to the boundary line between "Mata Redonda" and "Lo de Caceres" I beg to inform you that Mr. Patterson holds that he has not in any way violated or departed from the proposed friendly settlement that was to be made with Mr. Diaz, as he has not caused damages or committed any trespass on the latter's property. In this connection I am specially instructed to state that Mr. Patterson's intention has always been to abide by his promises, but if Mr. Diaz should desire to put an end to the proposed agreement, my client would by no means object—in fact he would be glad of it."

(Witness continuing): And that Mr. Diaz, immediately upon the receipt of the reply instructed him to drop the matter as he thought it would be closed amicably; that he recalls having received the letter of February 27, 1913, from Mr. Harmodio Arias, as attorney for Guillermo Patterson, the same having been introduced in evidence as defendant's exhibit "F":

388 "Panama, February 27, 1913.

"Valentine E. Bruno, Esq.,
Attorney at Law,
207 Avenida Ancon,
Panama.

"Dear Sir:

"Mr. G. Patterson has referred to me your letter of the 12th instant, instructing me at the same time to answer it in the following terms:

"1. The trail that has been opened by his direction, running through El Paso Real of Rio Hondo towards the old road to Portobelo, lies entirely within his property, and therefore it would have been idle to request in this connection the sanction or authority of the owners of "La Gloria" or "Lo de Caceres."

"2. It naturally follows that my client maintains that no trespass or unlawful exercise of ownership has been committed by the opening of such trail.

"3. With reference to the boundary line between "Mata Redonda" and "La Gloria" I am instructed to state that the southern boundary of the former is about one hundred feet south of the wire fence that was put there about twenty years ago by Mr. Patterson and not by Mr. Aleman, as you state—i. e., a straight line from the Mata Redonda to the headwaters of the Platanar Creek, crossing Rio Hondo somewhere near the Paso Real.

"4. Mr. Patterson further maintains that Mr. Aleman has wrongfully closed or obstructed the Public highway that is known as Portobelo road, which, as a matter of fact, must be left open.

"5. In so far as your communication refers to the boundary line between "Mata Redonda" and "Lo de Caceres," I beg to inform you that Mr. Patterson holds that he has not in any way violated or departed from the proposed friendly settlement that was to
389 be made with Mr. Diaz, on the latter's property. In this connection I am specially instructed to state that Mr. Patterson's intention has always been to abide by his promises, but if Mr. Diaz should desire to put an end to the proposed agreement, my client would by no means object—in fact he would be glad of it.

"I beg to remain, sir,

"Yours faithfully,

(Unsigned) (HARMODIO ARIAS),

"Attorney for Mr. G. Patterson."

(Both exhibits "E" and "F" were offered and admitted in evidence as defendant's exhibits "E" and "F," respectively.)

(Witness continuing): That he was attorney for Adolfo Aleman, Manuel Icaza, and Domingo Diaz; that there was a deed alleged to have been issued by the King of Spain in 1736 which referred to the headwaters of the Rio Hondo as one of the boundaries, introduced by Mr. Garay, and it was then thought that he was claiming all the property of Mr. Patterson as well as a portion of Mr. Diaz property within the boundaries of Pan de Azucar; that that was why it was necessary for Mr. Diaz and Mr. Patterson should present such evidence as they had at the time, but that when Judge Gudger, in examining all the title deeds found beyond doubt that Mr. Diaz and Mr. Patterson were outside of the question altogether, after making inspection, he decided to limit the proceedings between Adolfo Aleman and Mr. Garay

direct, but before coming to that conclusion the inspection was made to ascertain the points mentioned in the deeds; that in accordance with Judge Gudger's decision the lands of Pan de Azucar did not touch or arrive at the place called by him Mata Redonda; that all that Judge Gudger did in that suit was to delimit the Pan de Azucar boundaries; that the suit did not decide anything with reference to Mata Redonda at the point marked "X," but that they made an ocular in-
390 spection even of Mr. Icaza's property, making a thorough inspection of the road along where the fence was, and decided that the fence was not the boundary, but that the hard, graded road was; that all that Judge Gudger was called upon to decide and all that he did decide was the boundary of Pan de Azucar.

Re-direct Examination.

That the suit of the Hurtado family was instituted at the instance of Messrs. Kinckley & Ganson, who appeared for Narciso Garay; it was filed against Eduardo Icaza, Guillermo Patterson, Adolfo Aleman, Domingo Diaz, Manuel Icaza B. Florencia Arosemena and Pedro Arias and that Guillermo Patterson was named as a party defendant.

Re-Cross Examination.

That Hinckley & Ganson withdrew from the case prior to the time that it came to trial and prior to answer being filed; that he does not know why they withdrew.

ADOLFO ALEMAN, the eleventh witness called on behalf of the plaintiff, after being first duly sworn, testified as follows:

That his name was Adolfo Aleman, a resident of Panama; that he together with his father owned an estate named "La Gloria" in Las Sabanas; that formerly the property belonged to Garcia Paredes and formed part of Lo de Caceres and now adjoins the property of Lo de Caceres; that the general opinion was that the Pena Hueca was right at the foot of the chapel; that he had been there a great many times; that it was a large rock that had natural holes; that Mr. Arauz stated that he put salt in those holes for his cattle; that it was about 20 to 25 meters from the ruins of the
391 chapel; that from the time he was a child since his father acquired the place he had known that place to be the Pena Hueca; that he lived in the property and still lives there; that his house is quite a distance from the Pena Hueca; that it is about a half hour's walk from there; that from Panama going to the old chapel it is necessary to cross the Paso Real of the Rio Hondo.

FELIX GONZALES, the twelfth witness called on behalf of the plaintiff, after being first duly sworn, testified under oath as follows:

That his name is Felix Gonzales, 67 years of age, a resident of Sabanas; that he is a farmer and that he knows the Mata Redonda; that the ruins of the old chapel are on the other side of the Rio Hondo and that it is necessary to cross the Rio Hondo in order to go to the Mata Redonda; that the chapel was near the house

that was at the Mata Redonda; that he did not remember whether the Mata Redonda was far from the chapel or the house, as he was there in 1872 or '3 and that he went there in that year to take charge of the place for Arcina Roux; that his son Manuel Garibaldi showed him the boundaries.

Cross Examination.

That since 1872 or '3 he had never been to the place and when he did return he found another house there; that before 1872 he was living in the Sabanas; that he had gone to the chapel one time prior to 1872; that when he was there he lived in the house of Arsino himself which was 8 or 10 meters from the chapel; that 14 or 16 years ago he called out there and a friend was with him and he stated "Come on; let us go to the Mata Redonda," and they went, and when he arrived there he said, "This is not the house of Mata Redonda," and they went a little further up on the Cruces Trail and
392 then they met the chapel without any house; that the chapel is alongside of the Cruces trail; that he does not remember the distance; that he remembered perfectly the old Cruces Trail that went from Panama to Cruces as it was the oldest road in this vicinity; that a little trail shot off from this trail and went to the place.

LIBORIO ARIZA, the thirteenth witness called on behalf of the plaintiff, after being first duly sworn, upon oath testified as follows:

That his name is Liborio Arauz; that he lived in Bocas de Juan Diaz; that he knew the estate of Lo de Ca-

ceres as he had lived on it for ten years near a creek not far from the Rio Hondo; that he knew the place known as Mata Redonda or Pena Hueca that is on the other side of Rio Hondo from the City of Panama; that going to Mata Redonda it is necessary to cross the Rio Hondo; that he knows the old ruins of the chapel of Mata Redonda; that the chapel is near the Mata Redonda; that he knows Guillermo Patterson; that he had a house near the old chapel when he (the witness) was twelve years [old], and a diary; that his father lived on the lands of Lo de Caceres; that his father paid rental to Mrs. Catalina de Paredes; that he did not remember how long his father lived there.

Cross Examination.

That he was 37 years of age and that his father's name was Francisco Ariza; that he lived a distance from the chapel; that he paid rent to Mrs. Catalina de Paredes; that he did not remember how long he lived there; that his father died when he was 19 years of age and that he lived with him up to that time; that he was 17 years when his father died; that he did not recall how many years prior to his father's death he paid rent to Mrs. Catalina de Paredes; that he kept close
393 track of that; that he continued living the same place after that; that he lived there up to some time ago but does not remember when he left there; that he left there before the Canal Zone Government ordered the depopulation but he does not remember how many years before; that he knew the place called "El Bano Bello"; that he did not know Goyo Majagual; that he did not know where he lived; that he knew where Ricon Escondido was; that going down the river Hondo it is parallel thereto and that the Rio Hondo crosses the

Rincon Escondido; that it almost surrounds Rincon Escondido; that there is a pass at that place in order to go up to Rincon Escondido, but that he does not know it; that he does not know a place called La Puente and never heard of it.

ABEL BRAVO, the fourteenth witness called on behalf of the plaintiff, after being first duly sworn, upon oath testified as follows:

That his name was Abel Bravo, 57 years of age, a Civil Engineer, and professor, graduated in Bogota in 1884; that he is a professor of Mathematics and Spanish, and rector of the National Institute; that off and on he practised his profession; that he traveled a great deal and worked unsteadily; that he was working as Civil Engineer on the boundary line between Cost Rica and Panama and was also Chief of the Panamanian Commission; that he was an engineer of the French Canal; that he was sent by the Colombian Government to France; that he was working as Chief of the French Engineers of the French Canal Company; that he was sent by the Panama Government at the time of the dispute between Panama and Costa Rica in 1911; that at that time he worked from Bocas del Toro up to the mountains, along the Sixaola River and made all those plans and also the plans of Darien and submitted his views to the American Commission which was appointed by Chief Justice White and worked with them;
394 that he had been to the property of Lo de Caceres about three times having been appointed Expert; that he located the Mata Redonda on the western side of the Rio Hondo; that it is marked "X" on the map; that one of the reasons for arriving at the conclu-

sion that the Mata Redonda was at the point marked "X" was from one of the descriptions in the deed that Mr. Diaz had given him of 1695; that the description starts at the Pena Hueca and goes up the Cardenas, and then goes down to the Palangana, and up the Palangana waters until the mouth of the Platanar; from the Platanar to the head; there are three sources, and stops there and then comes around to the point marked "X," which makes it the Pena Hueca; that another of his reasons is that the San Jose deed of 1826 which Mr. Diaz showed him stated that in order to go from Panama to Mata Redonda it was necessary to cross the Rio Hondo.

This testimony, based upon the witness' conclusions drawn from deeds that he had read that were not introduced in evidence, the defendant, by counsel, moved to have stricken for the reason that the deed upon which the testimony was based was not introduced in
395 evidence. This motion being overruled, the defendant, by counsel, duly excepted.

(Witness continuing): That the Mata Redonda or Pena Hueca was a flat rock with holes on the surface about a foot in diameter; that there are ruins not far from the rock, some masonry and old ruins which it was said was an old chapel that belonged to the family that owned the property and nearby one of the headwaters of the Platanar—near the Pena Hueca; that he visited the Pena Hueca claimed by Mr. Patterson to be the boundary mark which is located on the side of the Rio Hondo toward Panama near the point marked "O"; that he did not remember just where it was located; that he saw a rock and the name Pena Hueca engraved in it but that it had been recently done; that Mr. Pat-

terson stated to him that it was done 20 years ago; that he told him that a few months ago; that there is a rock claimed by Mr. Patterson to be the Pena Hueca; that he does not think the rock itself is hollow, but that it has a hole underneath between the ground and the rock.

Cross Examination.

That it was Pena Hueca that he saw carved in the rock but that he does not remember exactly whether it was Pena Hueca or Mata Redonda; that he should think it was carved there about 15 years ago, more or less; that it might be more; that it showed that it had been there a considerable number of years.

The boundaries of this land as possessed by our ancestors in virtue of a Crown grant were constituted on the lower part from the Mata Redonda up to
396 the limits of the Rio Cardenas including its headwaters and springs downstream to the juncture of the Palangana stream and then seeking a creek with a rocky bed which crosses the Papaya field, and on the part from the hill called the Gallanazo to the furtherest boundaries of Mocambo lands"; that the Gallinaso hill is in the vicinity of the point marked by Florencia Harmodio Arosemena as the Gallanazo hill; that in following the boundaries when it says going from a point to the headwaters in this stream with the rocky bed, the stream being the Platanar to the Gallanazo hill, and thence to Mocambo, the boundary would run down to the point marked on the map "X" in a circle, indicated by Mr. Arosemena as the Gallanazo Hill, and from there to the point marked "J" as Mocambo, because there are two headwaters, one coming from the side of Mocambo and the other from the other side; that going down the mouth of the Cardenas and up the

Palangana to the hill assumed to be the Gallanazo, the boundary is not closed when it comes up to the Platanar because there is more to it; that starting from Pena Hueca or Mata Redonda to the headwaters of the Cardenas River; that there are two sources, one coming from each side to form the Cardenas and that it can be interpreted that starting from the Pena Hueca coming to the Gallanazo hill, and then to the headwaters of the creek, then going to the other side and coming down the Palangana, and coming up the Platanar, it encloses a surface; that that would not circle it; that he does not say a straight line; that he does not see how to close the polygon if Mata Redonda was not located close to the headwaters of the Platanar Creek; that the proper direction is starting from the point marked "X" to "X" in circle, and from "X" in a circle to "J"; from "J" down the Rio Cardenas to "P" to the mouth of the Palangana River; from the mouth of the Palangana River to the mouth of the Platanar, from the mouth of the Platanar to the headwaters of the Platanar near the Pena Hueca; that that would not close the polygon because every surface must be closed, it would be
397 an infinity or a continuation; that the only time he was ever out at this vicinity was in January of this year; that he was at the property three times, and the first time he was there for about 3 hours, the next time half a day, and another time about five hours, altogether ten or fifteen hours; that he did not examine all of the creeks with stone beds in that vicinity; that he did not inspect—he did not go to the San Jose property; that if there were another creek the interpretation would be very peculiar; coming from Pena Hueca to Macambo, that he could not close the polygon again; that without a polygon there is no surface; that he did not know whether there were some creeks there with

rocky beds; that he did not examine the Gallanazo Hill, that he did not climb on top of it, but that he was near it; that he was one of the experts named by Mr. Domingo Diaz in that litigation.

Re-Direct Examination.

That he is an indirect friend of the father of Mr. Patterson; that he has known Mr. Diaz a long time but not been on any terms with him.

FRANCISCO ANTONIO FACIO, the fifteenth witness called on behalf of the plaintiff, after being first duly sworn, testified upon oath as follows:

That his name is Francisco Antonio Facio; that he is the First Notary Public of the City of Panama and the keeper of the public documents executed in his notarial office; that the certificate of his office is on a certain instrument dated May 6, 1826, whereby Jose Pizano sold to Dr. Carlos de Ycaza, the hacienda of Pan de Azucar and San Jose, marked plaintiff's exhibit No. 19, dated Panama, February 14, 1918; that the final portion of the certificate read as follows:

398 "This fourth copy agrees with the original thereof and I issue the same on two sheets for Mr. Domingo Diaz Arosemena in Panama, the 4th day of the month of February, 1918.

(Signed) FRANCISCO A. FACIO,
Notary Public. No. 1."

(Witness continuing): That this is a copy of an original document in his office.

Thereupon, the plaintiff ordered the instrument in evidence, to which the defendant objected for the reason that the Code of Civil Procedure of the Canal Zone in paragraph 8 of Section 330 provides that official documents of a foreign country can only be proven by the original or by a copy certified by the legal keeper thereof, with a certificate, under the seal of the country or sovereign, that the document is a valid and subsisting document of such country, and that the copy is duly certified by the officer having the legal custody of the original, and that the seal of the Secretary of Foreign Relations of Panama and must in turn be certified to by the Executive Secretary of the Canal Zone, and for the further reason that the instrument itself has no bearing on the present litigation inasmuch as it purports to be a conveyance of the lands of Pan de Azucar and San Jose from one Jose Pizano to Doctor Carlos Ycaza which are not connected in any manner nor form a part of nor bound with the lands in litigation in the instant case.

By the Court:

I think the bringing of the custodian obviates any necessity of proving it by the Secretary of Foreign Relations and Executive Secretary. The objection is overruled.

To which ruling of the Court in overruling the objection made and in permitting the said instrument to be introduced in evidence as plaintiff's exhibit "19," the defendant, by counsel, in open Court, duly noted his exception.

399 PLAINTIFFS EXHIBIT "19."

Be it known that I, Jose Pizano, of this city, state in this document that I sell definitely from now and for-

ever to Dr. Carlos de Ycaza of this city in order that it be his of his heirs and successors and of whosoever might represent his local rights, the following: Estate known as "Pan de Azucar" and "San Jose" distant from this city about a league whose boundaries start at the Ancient Royal Crossing of Rio Hondo or "Rio de la Puente," that is, the crossing which was used on the road from Panama to Cruces, thence towards a creek which empties nearby and upstream on this creek to its origin and thence towards the creek Palangana on which it continues upstream until a point is reached in parallel to the Royal Crossing of said Rio Hondo at the place where it is crossed in order to go from this city to Mata Redonda and continuing in a straight line to the said crossing they go on later along the Royal Road of Mata Redonda already mentioned to a creek (or ditch) which is in the plains and runs from south to north and comprises a series of hills including that of "Pan de Azucar" on both sides all the way out to the plains. They continue along this creek, upstream, to some bushes where there are several small wells which constitute its origin and continue seeking the headwaters of a muddy ditch (which are near) and whose waters empty in the Matasnillo River along which the boundary line continues following its natural course including the Gallinero plains which lie between the ditches which join their waters thus making a circle around it. The ditch on the northern side serves as a boundary line with the lands of Lo de Caceres and the one on the southern side serve as a boundary line with the lands of "La Loceria"; from this last ditch the boundary line goes over to its origin; (which is near a hill) and thence a straight line to an old stone road (which is not very far and used to be the road from Old Panama to Cruces) which is somewhat damaged but it can be distinguished, and along

the said stone road the boundary line continues
400 until it reaches the above-mentioned Royal Cross of Rio Hondo (which is close to "La Loceria") the starting point, all of which is stated in the deeds of the estate which I have presented to the Notary Public. A two story house, four doors front and proportionate depth, with its attachments, stone pillars, wood and walls, tile roof and its chapel, kitchen made of concrete and tile, the corral, several fruit trees and a slave named Jose Antonio Humeres. The said estate with everything attached to it was bought from my brother-in-law Mr. Luis Lasso de la Vega, therefore, as my own I sell the said estate, its lands, houses, fruit trees and slave without any lien or mortgage nor any other encumbrance except the quit-rents which will be mentioned further on in particular, and I sell for the sum of three thousand six hundred pesos quit-rent which the buyer will recognize in favor of the following chaplains: fifteen hundred pesos at three per cent. payable to the Convent of Santa Domingo which have been transferred to the Municipal College of this city; one thousand pesos at three per cent. in favor of Mr. Luis Lasso de la Vega; one thousand pesos at three per cent. payable to the congregation of Our Holy Lord of Santiago de Veraguas, and one hundred pesos at five per cent. payable to the Very Illustrious and Holy Municipality of this Capital City; which amounts sum up three thousand six hundred pesos already mentioned as the price of sale and if it be worth more or may be worth more later whether it is little or much I hereby present and donate the vendee in the best manner and in a good, pure, perfect and irrevocable way the said difference, and therefore I hereby decline the first law, title 11, book fifth of the Compilation and the last law of the last title of the sixth portion. And I hereby desist, waive and decline the right

of possession and ownership which I had over the said estate as well as the privilege, use, right of use, house, servant, lands, bushes, pastures, creeks, rivers, watering places and everything else that belongs to it in
401 fact according to its deeds, I hereby cede, renounce and transfer in favor of the vendee in order that it be his as obtained by just and legitimate title and dispose of in whichever way he may please. And I bind myself to answer for eviction, security and guarantee of this sale in order that now and in all times to come it will be certain and sure and will not be so contended in a lawsuit or contradiction of any kind and if any be filed I will immediately take up the defense and will continue same at my expense until I may be able to place the buyer in quiet and pacific possession of the land and reimburse him any costs, damages, torts or losses that he might have suffered on account of this deed and I bind myself to admit his sworn statement as complete proof for the liquidation for its execution although the law requires other proofs which I here waive. And I bind myself to fulfill this promise with my own person, my property which I now possess or I may possess during the course of my life and to submit to the judges of the Republic of Colombia or of any other country to which laws and jurisdiction I hereby submit and waive my right of domicile and vicinity in order that I will be so obliged to fulfill this promise as if it were a sentence, decreed and approved. Acceptance.—Dr. Carlos de Ycaza being present and having heard and understood this deed stated as follows: I hereby state that I accept in my favor the said estate of "Pan de Azucar" and "San Jose" such as described and everything which it contains or is attached to it, and I further state that I have received them at my entire satisfaction and that I am in real possession of the said

estates, and since I have already received them I waive the laws that deal with fraud, its proof and all other laws related to it. I bind myself to admit the quit-rent herein stated and to pay interest at the rate of three per cent. on fifteen hundred pesos and five per cent. on one hundred pesos, each year, to the creditors starting from this date on. In witness whereof it is made and signed in the City of Panama, on May 6, 1826,
402 and the parties herein concerned whom I, the undersigned Notary Public swear that I know, so stated and signed before the witnesses Jose Ventura Calvo, Francisco Agn. Lopez, and Raimundo Y. Turralde.

(Signed) JOSE PIZANO.
" DR. CARLOS YCAZA.
" JOSE DE LOS SANTOS CORREOSO.

This fourth page agrees with its original and I extend it in two sheets of legal paper for Mr. Domingo Diaz Arosemena in the City of Panama on the 14th day of the month of February, 1918.

(Signed) FRANCISCO A. FACIO,
Notary Public Number One.

(There is a seal.)

(Witness continuing): That the instrument marked Public Instrument No. 814 of September 5, 1913, was a copy of an inventory and valuation of the property of Lo de Caceres; that it contained his signature as a Notary and his seal, and that he was the custodian of the original.

Thereupon the plaintiff, by counsel, offered the said instrument in evidence as plaintiff's exhibit "20," to the introduction of which said instrument the defendant,

by counsel, duly objected for the following reasons: "That the Code of Civil Procedure provides that official documents of a foreign country can only be proven by the original or by a copy certified by the legal keeper thereof, with a certificate, under the seal of the country or sovereign, that the document is a valid and subsisting document of such country, and that the copy is duly certified by the officer having the legal custody of the original and that the seal of the Secretary of Foreign Relations of Panama must be attached thereto, which seal must in turn be certified to by the Executive Secretary of the Canal Zone. Furthermore, the instrument
403 purports to be a conveyance of the lands of Pan de Azucar and San Jose from one, Jose Pizano to Doctor Carlos Ycaza; those lands which are purported to be conveyed by this instrument are not connected in any form or manner with the lands in this litigation, constituting a separate estate from either Lo de Caceres or Mata Redonda, and there is no showing as to how Jose Pizano ever acquired any lands to convey. This instrument is therefore clearly incompetent to prove any issue in dispute in this case and it is wholly irrelevant."

By the Court::

Let it be admitted. The fact that the custodian of the record testifies obviates the necessity of a seal.

To which ruling of the Court in overruling the objection made and in permitting the said instrument to be introduced in evidence as plaintiffs' exhibit "20," the defendant, by counsel, in open Court, duly noted his exception.

404 ANTONIO HENRIQUE NICALAO, the sixteenth witness called on behalf of the plaintiffs, after being first duly sworn, upon oath, testified as follows:

That his name is Antonio Henrique Nicalao, a resident of Panama at No. 15 West 11th Street; that under date of the 30th of April he signed a document handed him when he was acting clerk of the First Circuit Court; that the document is a true copy of the original; that he was in charge of the archives of the Court at the time.

To the introduction of which said instrument the defendant, by counsel, objected for the reason. First: That there was a failure to comply with the provisions of Sections 321 and 322 of the Code of Civil Procedure of the Canal Zone. Second: Because of the fact that the instrument on its face purports to be nothing more than a provisional or preliminary order or decree of a Court with reference to a litigation that had been initiated and that was not final. Third: That under the new Code of Judicial Procedure of Panama, the method of procedure in that case was improper. Fourth: That the matters concerned in the litigation to which the instrument referred had no bearing on the present case and was therefore irrelevant. Which objection being overruled by the Court, the defendant, by counsel, in open Court noted his exception.

The instrument was thereupon introduced in evidence as plaintiff's exhibit "21."

Cross Examination.

That there were other proceedings connected with the case that are not attached to and form part of the

record that was introduced as plaintiff's exhibit "21"; that he had not copied the other portions because he had only copied what Dr. Arias and Mr. Domingo Diaz had told him to copy; the same as he had copied from Mr. Patterson; that the instrument that he copied contained the Diaz papers but not the entire file; that the
405 record is not complete; that he had merely copied the documents presented by Mr. Diaz in the First Circuit Court of Panama; that there had been a decision by the Judge of the First Circuit Court of Panama with reference to the delimitation; that the case was on appeal to the Supreme Court; that he had copied the documents presented by Mr. Diaz and the record of the ocular inspection; that he cannot tell what portion of the case was taken to the Supreme Court; that there were several suits in the Circuit Court of Panama filed by Mr. Patterson and Mr. Diaz; that he had merely copied the deed filed by Mr. Diaz and the ocular inspection proceedings.

FEDERICO CARCHERI, the seventeenth witness called on behalf of the plaintiffs, after being first duly sworn, testified under oath as follows:

That his name is Federico Carchari, a resident of the City of Panama at No. 120 Ancon Avenue; that his signature appears on a document handed to him by the attorney for the plaintiff and that he was acting Clerk of the Second Circuit Court of Panama; that he certified on the 4th of March, 1918, that the copy was a true copy of the original, and that he was in charge of the original records at the time.

The above and foregoing constituted all of the evidence introduced by the plaintiffs, no part nor portion of

the same being omitted, and thereupon the plaintiffs announced that they closed their case and rested.

Thereupon, the defendant, by counsel, moved that the complaint of plaintiffs be dismissed and that the plaintiffs record nothing and as grounds for said motion stated as follows:

That there was no evidence introduced by the plaintiffs to show that the defendant occupied any part or portion of the land claimed by the plaintiff; that there was no map or deed showing how many hectares if any of the land claimed by plaintiffs was in the possession of the defendants; that the plaintiffs had failed to prove title to any portion of the land alleged to be in dispute; that the area in dispute was not shown nor the boundaries thereof and that there was no proof to the effect that the plaintiffs had ever been in possession of any area shown by the evidence to have been in possession or claimed by the defendant.

Which said motion being by the Court overruled, the defendant, by counsel, duly noted his exception.

406 OMAR E. MALSBURY, the first witness called in behalf of the defendant, after being first duly sworn, upon oath, testified as follows:

That his name is Omar Evert Malsbury: that he is a Captain in the Engineering Corps of the United States Army, and a graduate of the engineering school of the University of Missouri in 1905, where he received the degree of Bachelor of Science in Engineering; that he had been engaged as a Civil Engineer since that date

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continuously; that he has been an engineer with the Isthmian Canal Commission; that for 13 years he had been engaged in the profession of Civil Engineer; that during the last few years he had made maps for the Government of the United States in the Canal Zone; that in preparing the surveys and field notes he did part of the work; that his work was principally overseeing the work; that his work was in a supervisory capacity; that he was on the job all the time; that he made maps of the survey of the Mata Redonda and San Jose estates and showed the location of the Lo de Caceres and Lucha Franco on this map; that he himself was engaged in that work on the field for several months on the Mata Redonda estate before it was finished; that he ascertained the location of the place called the Mata Redonda; that it is one of the boundaries named in the deeds; that for so doing he conversed with people living in the vicinity for the purpose of ascertaining the exact location of the place called Mata Redonda; that none of those with whom he had conversed and who were residents out there indicated any point other than the one designated on his map.

(Here the map prepared by the witness was introduced in evidence as defendant's exhibit "X").

407 (Witness continuing): That in preparing the map he did not converse with all the people in that vicinity, but that they did converse with as many as they could get hold of and asked them about it, and all that they saw and talked to pointed out the same place as the Mata Redonda; that there is a little bunch of bushes there and a big rock; that there is a hole in the top of the rock but he does not remember exactly where the hole was; that it was a large rock that could be seen from the road although he did not examine it

much; that there are bushes around there and he did not see any difference between that bush and all the rest of the bushes; that he was furnished with title deeds at the time by Judge Feuille of the Law Department of the Panama Canal; that on account of the description being so indistinct in some cases, when they were starting out to make a survey of an estate or of several estates, they studied every description before they made a move, and when they found that the descriptions disagreed they harmonized them as best they could; that anyone who has had anything to do with the boundary lines in Panama knew that they were sometimes very indefinite, because if they took the description of one estate and ran the boundary line of that estate by that description along, they would come out wrong; that they had to take them all, because it would be hard to determine one description taken by himself alone; and by taking them all together and fixing the boundary lines in accordance with all of them, that that was found to be the best thing to do; that they also got all the information they could from the residents in these vicinities; that he himself had made the map marked defendant's exhibit "X"; that the point marked with the letter "A" on the map is the Mata Redonda; that the point marked on the map with the letter "B" and indicated by two red circles is that claimed by the plaintiff to be the Mata Redonda; that he located the point marked "B" from the map of the plaintiff; that no one had ever pointed out the other place marked "B" as being the Mata Redonda and he knows nothing in particular about it except the ruins of an old Church there; that the boundary lines of the estate of Mata Redonda do not run from the Mata Redonda to the Mocambo; they run from the Mata Redonda up through the string of hills Algarrogo, Vidrio and Gordo,

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and up to the headwaters of the Rio Cardenas, thence down the Rio Cardenas to the Palangana, and then up the Palangana to the Platanar, to the headwaters of Platanar, and thence back to the Mata Redonda; that in that case the Mocambo Hill would be just outside, but that the description he had showed the Cardenas River as being the boundary line between Mata Redonda and the Guanabano estate; that the headwaters of the Cardenas River are beyond the Mocambo Hill; that the descriptions of the San Jose estate, the Mata Redonda estate and the Guanabano estate all agree and give the same description; that the description of Mata Redonda says that it is bounded on the east by Lo de Caceres and Lucha Franco; that the description of Lo de Caceres is the only one that differs and it differs so much from the other estates that it could not be used except in a general way; that if he took the description of that one estate to be correct then the descriptions of all the other estates would be wrong, consequently, he went by the majority; that the description of Lo de Caceres stated that they go up towards Lucha Franco clear across from Mocambo, and through the other properties; that the following is one description of the lands of Lo de Caceres:

"Those boundaries we have agreed upon are: Mata Redonda to Mocambo, a straight line, and from Mata Redonda along Pan de Azucar, it shall be in accordance with the ancient titles which said hacienda I had and purchased from Mr. Muriano Arosemena, by deed executed before the present scrivener."

Here is another: "And together, or as a whole, they extend from the sources of Rio Hondo, along its banks,
along the quebrada which is on the outskirts of
409 Pan de Azucar."

That is does not give the name of the quebrada, or anything at all, but simply says the quebrada, "from the said quebrada in a straight line as far as Matasnillo; following the said straight line to where it goes out to the sources of the quebrada which empties in the ancient city."

It does not give the name of that quebrada; the ancient city is evidently Panama, "and from the course of the said little quebrada upwards to the hill of (Sonsonate) and that of Gallanaso, and from there to the Mocambo, keeping within the Quebrada which they call the Castenado."

(Witness continuing): That it is impossible to follow the last description; that a wavy line on the map from the points "Y—Z" is the fence line; that it is Mr. Patterson's fence line; that he examined the fence when he was there; that it was not a new fence but he could not say how old it was when he examined it in 1913; that if the Mata Redonda estate had run from the point marked "B" on the map claimed by the plaintiff to be the Mata Redonda or Pena Hueca, to Mocambo, it would not have been possible for the Mata Redonda estate to have been bounded as all the deeds of the estates stated by the estate of Lucha Franco as in that case the boundary line would run from the point marked "B" to the hill of Mocambo, to "C", and the Lucha Franco is beyond the line of hills; that from the description contained in the Crown grant of Mata Redonda in 1665, reading as follows:

".....to be on the lower part, from the Mata Redonda up to the limits of the River Cardenas, including its headwaters and springs."

Then evidently the instrument has been torn and it reads:

410 "bottom, down stream to the junction of the Palangana stream, and thence seeking a creek with a rocky bed, which creek crosses the Papaya field; and on the upper part, from the hill called, "blank", to the furtherest boundaries of Mocambo, lands which were granted by the Crown for the sum of one thousand pesos." That he (the witness) was unable to state where the polygon closed even then; that if only one description of the property is taken in the deed executed so long ago it is very hard to understand; that it specifies the headwaters of the Rio Cardenas which might mean the water shed or the Cardenas; that they did not depend upon that description alone but upon the description of all the other titles; that he could not say whether following that description alone the polygon would be closed; that in that description a lot is left to the imagination and those who executed it acted as though they were talking to parties that knew all about it; that the names of the people indicated on the map are renters, people who had cultivations there; that their names were placed on the map because the Government had to pay all of them as the Department of Law settled with all of them for their improvements; that he had talked with the cultivators who were on the property; that none of those people had any question as to who was the owner as they all paid rent to Mr. Patterson and always had to pay rent to him; that a good many of these people who paid rent to Mr. Patterson were on that portion of the estate of Mata Redonda lying north of a line drawn from what Mr. Diaz claimed to be the Mata Redonda or the point marked "B" on the map to Mocambo, and a few were below the line; that all the

people between the letters "Y—Z" and Cerro Algarrobo 1, 2 and 3 and Cerro Vidrio and Cerro Gordo, and back to the point marked "B" on the map, to the headwaters of the Cardenas, down the Cardenas and up the Palangana, paid rent to Mr. Patterson; that all the people marked on the map who were within the boundaries of the entire tract shown on the map
411 marked "X" to be the Mata Redonda paid rent to Mr. Patterson; that if anyone living on that property paid rent to anyone other than Mr. Patterson they were unable to locate them; that they located all that had improvements on this property though they might have overlooked one or two small ones; that some of the properties these people had were ancient; some of them were in the place marked "B" to "Y" where the land had been cultivated so much that it had simply become sterile and they had quit cultivating, particularly back of the old church, (indicating the land in the vicinity of the point marked "B" on the map); that he observed houses or fincas of people who lived north of the line from "Y" to Mocambo; that the places around that old church seemed to be ancient and had been cultivated so much for years, that they had lost their fertility; that he did not know how long the people had been there; that the fence marked "Y" to "Z" when he was there in 1913 was down in some places but the general line of it could be easily followed out; it was an old fence, I don't know how old, but it was partly a growing fence and partly posts and wires; that it impressed him as being a boundary line fence; that there is an old path that used to run along the fence, and that old trail could still be picked out; that it was an actual boundary line, whether it was legally correct or not he did not know; that that was the boundary line between Lo de Caceres and Mata Redonda; that they

went according to the description and started a straight line from the point called Mata Redonda up to the Algarrobo hills; that the map introduced as defendant's exhibit "X" is an official map of the United states Government.

Cross Examination.

That he did not mean by saying that the map was official that the United States would recognize Mr. Patterson as the owner of the lands between the boundaries indicated, but that it was a map run out by an official representative of the United States Government;
412 that the United States had no interest in the ownership of the land; that the United States recognized that the boundaries indicated on the map were correct; that it was a special map made by representatives of the United States Government, although the Courts might throw it out, but that it was an official map of the Government; that he did not say that if he followed the deed of Lo de Caceres strictly without regard to the other surrounding estates he could fix the point of Mata Redonda or Pena Hueca at the point marked "B" on the map; that taking all the descriptions of the estates he fixed the Mata Redonda at the point marked "A"; that if he used the description of the Lo de Caceres estate as given in the deed he would have to draw a line from the hills through all the other estates and he did not know where it would end; that it would be in conflict with all the other points; that the map as made by him harmonized the boundary and that the description of Lo de Caceres was so radically different from the others that it had to be disregarded in that particular; that the following descriptions in the legend contained in the map were correct.

"Isthmian Canal Commission, Department of Construction and Engineering, Office of Assistant to the Chief Engineer, Culebra, Canal Zone.

"Map of the estates Lo de Caceres, Mata Redonda, La Gloria and San Jose.

Scale: 1 to 10,000.

Field work C. E. S.—J. H. H.

Made by H. F. B.—K. B. L.

Traced by K. B. L.

Checked by B. B. A.

Revised March 14, 1914.

Submitted O. E. Malsbury, Assistant Engineer.

Approved H. H. Rousseau, Assistant to the Chief Engineer."

413 (Witness continued): That the initials stand for C. E. Slonaker; J. H. Henderson; H. F. Bronson; K. B. Lee; B. B. Alexander that he made the map under his supervision; that he supervised the work frequently and stayed out there for a week or so at a time; that he was there two or three times; that they used the information from Mr. Patterson but they had the descriptions of all those estates; that Mr. Patterson was a friend of his; that he accompanied him on the ground, they having spent the bigger part of a day there; that he did not try to get in touch with Mr. Diaz; that they did not always call upon persons interested in making maps for the purpose of obtaining information from them in ascertaining their claims as to their property; that they did in this case and had done so in several other cases; that they considered it was their duty to help them; that he would have gone to see Mr. Diaz if he had known that the property had belonged to him; that he prepared a map of the San Jose property; that he did not have the deed of San Jose of 1826 but of

1856; that taking the description in the deed of 1826 as follows:

"The boundaries begin at the Paso Real Antiguo, this one at the end of Cruces Road, that is to say the pass that used to serve as the road to go from the ancient Panama City to Cruces, then to a certain ditch or creek, and following this creek, to its original, and from there as far as the Platanar and Palangana, and then following the Palangana, up, whereby they continue upstream, up to a place where it is placed in parallel with the Paso Real on the said Rio Hondo at the place used for crossing to go from this city to Mata Redonda".

(Witness continuing): It does not necessarily mean that the Rio Hondo must be crossed in order to arrive at Mata Redonda for one might go to where the Palangana was parallel to the crossing of the Rio Hondo; that the pass is a place indicated on the map but the line stands parallel; that the deed says that you
414 cross the Rio Hondo to go to Mata Redonda; that he might have had that description before him but he did not have it with him then; that if he had had that description he would not be led to assume that the Mata Redonda was not at the point marked "A" on the map but at somewhere else on the other side of the Rio Hondo; that the Rio Hondo might have been down on another place and they would still say that they cross that to go to Mata Redonda; that the descriptions cannot be taken literally; that he had found cases time and again where the description had said that to go to a point you would have to cross a river and the point would be far into an estate; that the Mata Redonda had been marked by him on the eastern side; that if he had followed the San Jose deed of 1826 he would have had to look for it on the western side; that he used

the titles and descriptions furnished him by the Law Department in making this map; that he used all he could get hold of; that he could not make a map from the description contained in the Crown grant of 1695; although he might have if he had studied it thoroughly, but that luckily he was not depending upon the description of one estate alone; that the distance from Algarrobo No. 1 to No. 3 is a little over half a mile; that the title deed does not call for Algarrobo Nos. 1, 2 and 3; that if he had drawn a line from Algarrobo No. 1 to point "A" he would have taken a large portion of land from the defendant; that he does not know whether No. 1 is the largest of the Algarrobo hills or not; that he used the point marked Algarrobo No. 3 because the old fence line and old road indicated the actual boundary line, and that by using a straight line from Pena Hueca to this Algarrobo No. 3, it cuts off part of the Mata Redonda estate and also gives him [it] a part, so that the line that he used just about equalized it and that is the reason he used the point; that the three hills, 1, 2, and 3 ran along the ridge along the same hill; that the deed does not say the ridge line was to be followed but from one hill to another; that just like if a river is the boundary, you would follow the bed of the river;
415 that he thought the points marked 1, 2 and 3 were really one hill with three points, so they followed all three points; that he went according to the deed following down the ridge line; that it was all one hill with three points; that if Ancon hill had two points to it and it was mentioned as a boundary line the line would run through both points of Ancon hill; that he obtained information as to the names of the hills there, and that those marked on the map were respectively Algarrobo, Vidrio and Gordo; that the draftsman must have placed the three points of Algarrobo hill as that was the

common practice here to show that the line ran over the ridge along the whole hill, going over each point; that the fence line marked "Y"—"X" did not go more that half mile from the boundary line, and from the point "W" to point "Z" it was out of the boundary line in accordance with his interpretation, about a little less than half a mile; that he knew at one time who was the owner of "Potrero 4.8" as they had a list of them, but the name does not appear on the map; that all of the people marked on the map told him that they paid rent to Mr. Patterson and that he did not remember what any particular man told him; that he understood that Mr. Patterson occupied that himself; that he did not know that it belonged to Mr. Aleman; that he does not remember the people, individually; that all he remembered was that the people told him that they paid rent to Mr. Patterson; that the records of the Panama Canal gave their names; that he prepared the map in 1914; that it did not interest him particularly who these people paid rent to, except to locate the boundary line of the Mata Redonda estate; that Messrs. Henderson and Slonaker did the actual field work; that he did not recall the nature of the cultivations that the people had there, some for them were clearings and at the time they made the map was in the dry season, and they had burned it off, getting ready to plant; that the cultivator were planting yams, yucca and rice; that he did not know where Tesorera Creek was; that if he knew
416 where Mocambo was and where Mata Redonda was a straight line could be drawn between them and the headwaters of the Platanar; that going down the Palangana you would follow down stream until you got to a point where it is parallel with some point on the river, which does not make very good sense; then you go down the Palangana River about 3/4 of a

mile from the Rio Hondo, and then you say you come down here until you get parallel to a road crossing up on the Rio Hondo, which is ridiculous; that the description read by the attorney did not say how far you go down stream until you get parallel with the road crossing, and you are 3/4 of a mile from this road crossing; you can be parallel to it many times; that he did not follow the deeds of Mata Redonda closely, that he read them all over and checked them where they had any conflicts; that they tried to make the best of it; that they used the deeds of Lo de Caceres but that they were so completely conflicting with the other estates that they had to throw them out; that they used the fence line "Y—Z" and the deed calls for a line running from this Mocambo hill to the Mata Redonda; that they did not fix that line because the other descriptions stated that Mata Redonda was bounded on the north by Lucha Franco, and that if they had taken the line referred to it would not have been bounded on the north by Lucha Franco; that in one of those descriptions it was stated that Mata Redonda was bounded by Lucha Franco; that he did not know how many descriptions there were, but the one he had gave Lucha Franco as the boundary; that often they would find two names for the same hill; that this description might have meant another Mocambo; that there is a stream out there called the Cabulla, and there is another one out opposite Las Cascadas called Cabulla; that there were a lot of points here with the same name, and this description may have meant another Mocambo, but that he did not attempt to locate the other Mocambo; that they did locate the Mocambo given in the title deeds of Lo de Caceres and marked it; that Mocambo hill is not shown on the map; that the original
417 map shows it at the point indicated and the map of Guanabano estate shows it; that the

only part of the estates they were interested in were those inside the Canal Zone; that he was asked by the Government to draw a map of Lo de Caceres so far as concerned the Canal Zone and had to be guided by the title deeds submitted to him by the Government; that one of the boundary lines says from the Mata Redonda to Mocambo, but that is not in the Canal Zone but outside; that one of the deeds given him by the Government calls for the boundary from Mata Redonda to Mocambo; that the San Jose, Guanabano and Mata Redonda deeds contain descriptions showing that Lucha Franco bounds Mata Redonda on the north; that one of the other estates speaks of it; the San Jose, Guanabano and Mata Redonda descriptions coincide; that is, they can be adjusted so that the boundary lines of each fit up with the other; that the boundaries of San Jose and Guanabano specify Mocambo; that it is not the starting point of them, and that he does not remember the starting point of San Jose; that the Guanabano estate is on this side of the Cardenas River; that the Mata Redonda is the starting point for both Lo de Caceres and Mata Redonda; that if he were asked to draw a map of Lo de Caceres from Mata Redonda to Mocambo he would have to draw that line somewhere; that he indicates it on the map; that he threw out the single sentence "from Mocambo to Mata Redonda," because that one line conflicted with all the descriptions of the other estates; that the description of the estate of Guanabano says that it is bounded on the north by the estate of Mata Redonda; that it mentions Mocambo; that the estate of Guanabano would not be affected if the line was drawn from Mata Redonda to Mocambo; that the estate of San Jose would be affected; that Mata Redonda is not the only estate that would be affected because it also affects Lucha Franco; that Lucha Franco is given as

the boundary line of the Mata Redonda on the north; that if a line were drawn from Mata Redonda
418 to Mocambo it would affect the estate of Lo de Caceres; that it would also affect the estate of Mata Redonda, and affect the description of Mata Redonda estate, which description agrees with all the others except Lo de Caceres; that the land of San Jose estate reaches up to the Mata Redonda, but does not touch the point marked "A" now, and that the estate of San Jose would not be affected by drawing a line from Mata Redonda to Mocambo; that the estate called La Gloria was cut out of that estate, it was sold to Mr. Aleman and this one point would not touch all these estates; that the estate of San Jose would not touch any part along the line from the point marked "C" to the point marked "A" on the map; that he believed that the Guanabano estate would, just a little piece on the Mocambo side; that Lucha Franco is entirely beyond, quite away from the boundary; that if that line were drawn the Mata Redonda estate would naturally be affected; that they visited the ruins of the old chapel; that it was at the point marked "Ruins" on the map; that it was a house with a cross on it; that he didn't see any big rock there; that he saw the ruins of an old church; that he examined the rock claimed by the defendant to be Mata Redonda from the road, at the point marked "A" on the map; that he went there in 1913 on foot; that you can see it 50 or 60 feet away; that there were bushes there; that he means the road running out to the Mata Redonda; that he did not see any inscription on the rock.

Re-Direct Examination.

That the road that ran from Mata Redonda to Panama as spoken of in one of the San Jose deeds ran past the

point marked "A" on the map as Mata Redonda and down towards the house; that he did not locate the old road; that it ran past Mr. Patterson's house; that the present road to Porto Bello goes through the Lo de Caceres estate close to the Mata Redonda estate; that Mr. Guillermo Patterson was not with him on these lands nor was his father; that he merely saw
419 him once or twice at his house as he happened to be there, but he did not go around with him; that the distance from the house of Mr. Patterson to the point marked as Mata Redonda on the map is approximately one-eighth of a mile—between one-eighth and one-quarter; that the house had apparently been there a considerable length of time, some of it was old and some new, as if it had been added to; that if the line from Mocambo to the point indicated by the plaintiff as the Mata Redonda were the Lo de Caceres boundary, the house in which Mr. Patterson lived would be on the Lo de Caceres estate; that the Mr. Patterson who gave him the information was Mr. Juan Francisco Patterson who he thought was a relative of the defendant, but was not the defendant.

JOSE DE LA CRUZ HERRERA, the second witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That he has been a resident of Panama for about six years; that he is a Doctor in Philosophy and a Professor in Spanish; that he is a graduate of the University of Bogota, Colombia; with a degree of Doctor of Philosophy; that for about 20 years he had been Professor in Spanish; that the precise meaning of the word "Mata" in Spanish is first of all a kind of bush, some small

plant; that extending the meaning it also means a big tree; that it is a proper name also for a place full of bushes, that is to say, not only one, but a quantity of bushes together; that the difference between "mata" and "mata (real)" is that "mata (real)" gives the idea of some small bushes, a common lot of bushes, and "mata" in one sense is something more, giving the idea of the whole; that "Mata Redonda" would be a round bush, or a place with bushes which has a round head, a round circle of bushes; that "pena" is a stone, a big stone; that "pena hueca" is a big stone having a cavity where you can go into the cavity, or in other words that very deep with respect to the thickness of the stone; that "pena hueca" might properly be identified as a rock with holes in it if the holes were big, but that it could not be a large rock with a large number of little holes or crevices in it; that that would be described as a "pena con agujeros", or rock with holes; that it would not be possible for "pena hueca" to be synonymous with "Mata Redonda".

Cross Examination.

That "agujero" is a hole that is small with respect to the thing which bears it; that he refers to the thickness, not to the depth; that if he had a pencil with a little thickness and a little hole in it he would say "con agujero" because the hole would be very thin with respect to the thing bearing the hole; that "agujero" depends upon the thickness of the wall; thickness of the object that they put the hole in; that a stone with a big hole in it would be called a hollow stone; that "cueva" is the Spanish word for cave; that the people in Panama did not make such very nice distinctions as he had attempted to make perhaps; that metaphoric language

is the language of the people and for that reason it is the basis taken in the study of primary sciences; that in metaphoric language there is hardly anything that is not possible; that as far as he had heard in Panama he did not believe that "pena hueca" would be a rock with little holes in it, but with big holes in it, but that the rock could be termed hollow; that the technical meaning and the common meaning of things are the same; that he did not mean in Panama only, but generally; that "pena hueca" properly translated in the English language would mean "hollow stone" or "hollow rock"; that "pena hueca" means that the hollow is in the rock.

Re-Direct Examination.

That in accordance with the association of ideas it is possible to refer to a rock as hollow when it is a large rock with a hollow under it; that the association of the idea of the hollow with the rock might be sufficient for people to refer to the rock as hollow, which was frequently done by association.

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Ré-Cross Examination.

That with reference to such rock with a hollow under it, people approaching it and seeing it from afar would consider that the hole was in the rock, and would term it a hollow rock and upon nearer approach to it, although the hole was under it, they might still call it "hollow rock", which is the philosophy of expression and which is quite possible; that that expression might be used with reference to a large rock with little holes in it because the big holes would be seen from afar and the little holes would not impress one; as for example one would

say in figurative expression "a sail goes", but it is not the sail, but the ship that goes; that he does not say that the rock with a hole under it would be called a hollow rock in the same sense that a rock with a hole in it, for the reason that he had stated, the same as one would say "here come twenty horses" when the "twenty horses" might also refer to "twenty horsemen" riding them; that that which first impresses one is that which is frequently mentioned; that a rock with little holes in it would be nearer a "hollow rock" that a rock near a place where a hollow is.

JUAN BRIN, the third witness called on behalf of the defendant, after being first duly sworn, upon oath, testified as follows:

That he lived at 23 North Avenue in the City of Panama except for a few years when he was away; that he was born and brought up in the country; that he had information of the estate of Mata Redonda, as he was for a time attorney for Mr. Patterson while he was away in 1907; that it was in the time that he was
422 away that he represented him, which was a year or more; that he was then in charge of the Mata Redonda estate; that he recalled having repaired a fence on that property; that the fence that he repaired started from the Mata Redonda and followed the road, (indicating the fence), and that he finished the repairs at a quebrada called Agua Bendita that was in the vicinity of Cerro Algarrobo; that the line "Y—Z" indicated the fence line that he repaired; that that line had always been taken as the boundary line between the two estates; that in the place called Algarrobo and in all the surrounding place on the lands of Mata Re-

donda there were many people living at the time that Mr. Patterson was away; that they paid rent to him and it was with that money that he did the work on the fence; that he could not say whether anybody paid rent to Mr. Diaz, but those people who were there paid rent to him, the witness, and that they should have receipts for the money that he received from them; that he was quite familiar with the place known as Mata Redonda; that he went out there frequently and that prior to his management of the place he had been out there for a good number of years; that the first time that he saw the place called Mata Redonda was a great many years ago; that it was a bush more or less in a round shape, surrounded with what was called "llanos" or a plain; that he heard there was a rock, but he never went in there, but that they said there were hollow rocks in there; that he had always known that place to be the Mata Redonda; that he had never known any other place to be the Mata Redonda.

Cross Examination.

That the persons who paid rent to him were located in the neighborhood of Algarrobo Hill; that he did not remember the names; that he believed there was a man who signed his name "Ariza" long ago, but he did not remember exactly; that he used to go to Mr. Patterson's house sometimes, but not while he was away;
423 that he had known Mr. Patterson for probably 30 or 40 years, since his childhood; that he used to visit him at his house in Panama City; that his house in these times was not at the chapel, it was torn down; that he did not see the house at the chapel, and that he did not know if he had one there or not; that he had several times visited the ruins of the chapel; that he

never went inside the Mata Redonda to see the rock but only from the outside; that he did not know the existence of the Mata Redonda claimed by the plaintiff to be the Mata Redonda; that he never paid any attention to the Mata Redonda but simply went by on his way to the place, because the road is just by the side of the Mata Redonda; that he probably went there twenty times, but that he never had an interest in the matter; that he never had any particular interest in the starting point of the boundary line because there was no question about that at the time; that the Mata Redonda so far as he remembered did not cover an acre; that he cannot state the precise quantity of ground that the Mata does cover; that he was never inside of it; that the boundary line started from the Mata Redonda; that he could not locate it exactly now as a number of years had passed since then; that he could not say whether the fence started from the Pena Hueca; that he built the fence that starts from there now and it is the same fence that he repaired and that that could be verified; that the fence started from the Mata Redonda; that he repaired the fence in 1907 while Mr. Patterson was away and that as soon as he went away he started the work; that he had passed the potrero owned by Adolfo Aleman known as "Alemania" but he had never been inside the place; that the fence that he had started went up to Mr. Aleman's line and then continued down, but did not enclose it; that he continued from the Mata Redonda to Mr. Aleman's fence and then from the other side of Mr. Aleman's fence on, as there was no use to make two fences, one on top of the other; that he knew the

424 place called Alemania in 1907; that he made a fence on the posts that were holding wires of a previous fence; that there was a fence there, the wires of which had been stolen or disappeared, and

that he merely reconstructed the other fence; that he does not remember whether he had spoken with Jose Garcia de Paredes or Ramon Garcia de Paredes; that he did not remember anyone having objected to his building the fence as it was a matter of days and weeks that it was building, and they must have seen it building; that it could not have been built in less than a week, but the party who built the fence for his account was there and could tell; that it was more than a mile in length; that he used the old post to run the new wires on, because the old wires had disappeared; that it was not several fences, but looked like one continuous fence; that he could not say whether other fence posts existed in that neighborhood as it was so long a time ago; that the people called Alemanis had a fence alongside the road; that that fence being in the way he had to jump it; that that is the only fence that he can remember except the one he repaired; that he does not believe there are any other fences there; that he is certain of that; that he built as far as the "Alemania" fence and then continued on the other side of it; that he built all the fence that was required; that that fence of the "Alemania" was the only piece to be found in tact; that he understood that they had some talks on the subject of boundaries but he did not know that the things were brought up in Court; that he is a friend of nearly everybody in town; that he was one of the arbitrators with Roberto Obarrio as the other; that they could not agree on the subject; that it was then referred to an umpire; that the umpire was Dr. Ciro L. Urriola; that he knew they had disputes concerning the boundary question; that he understood that Dr. Urriola had rendered a decision but that he had not seen it; that he did not know whether he had decided it or not; that he heard he

had decided it in favor of Mr. Diaz; that it must have been a written opinion, but that he had not seen it.

423 Re-Direct Examination.

That the line of the fence of "Alemania" was on the way of the fence which he re-constructed; that it was right close to the boundary line between the estates of Lo de Caceres and Mata Redonda; that the improvements of Mr. Aleman in the property known as "Alemania" were on Mr. Patterson's land; that he had many times told Mr. Aleman that he was on Mr. Patterson's land.

There the following question was propounded to the witness by counsel for the defendant:

"What if anything did Mr. Aleman state to you with reference to his having put any improvements on Mr. Patterson's land?"

This question was objected to by counsel for the plaintiff as hearsay, and was sustained by the Court; to the sustaining of which objection the defendant, in open Court, by counsel, duly noted his exception.

(Witness continuing): That he had many times bathed at the place known as Bano Bello; that the Bano Bello was on the way from Mr. Patterson's house to the ruins of the chapel and had to be crossed to go there; that it is a creek known as "Bano Bello" that is crossed; that the road going from the city of Panama to the chapel was crossed by a creek called Bano Bello; that he did not think that that was the old pass of the Rio Honda; that the old pass of the Rio Hondo was below that place; that

he had never seen it; that he might have seen the crossing of the Rio Hondo known as "La Puente", but does not remember.

Re-Cross Examination.

That Mr. Aleman had never paid rent to him, although he had several times asked him to do so.

426 Re-Direct Examination.

That he left the matter of the dispute with Mr. Aleman to be settled upon Mr. Patterson's return; that he knew how Mr. Aleman got the place; that the improvements on the place formerly belonged to Mr. Almenca, who sold them to Mr. Aleman and that Mr. Almenca in accordance with his declaration made at the request of the witness stated that he sold the plants only to Mr. Aleman, and that the land belonged to Mr. Patterson; that Mr. Almenca must have paid rent to Mr. Patterson but that he could not say.

JOSE PABLO MEDRANO, the fourth witness called on behalf of the defendant, testified as follows:

That his name was Jose P. Medrano, a resident in the Sabanas Road, Panama, 45 years of age; that he had lived on the estate of Mata Redonda for thirty years, at times being employed by Mr. Patterson, and other times working for his own account, but always on the lands of Mata Redonda; that in 1907 or '08 he made a contract with Mr. Juan Brin for repairing an old fence; that the fence ran from the Mata Redonda to the Algarrobo Hill, taking in the entire slope of the hill; that he took a

month and a half to build it; that the fence began at the point marked "Y" to the point marked "Z" in a wavy line as shown on the map marked defendant's exhibit "X"; that the owners and occupants of Lo de Caceres knew that the fence was being repaired during this month a half because the whole family of Mrs. Catalina Paredes and Mr. Paredes, also saw it; that they did not protest; that there is a road running along the entire fence line; that at the point marked as the Mata Redonda there is round circular shaped clump of bushes there, very old, and a rock with a cavity underneath,
427 there being two rocks, one on top of another and the cavity between the two; that he had lived for thirty years in that immediate vicinity; that during the thirty years all the people had known this spot as the Mata Redonda; that he had never heard any other point but the one marked "Y" on the map being claimed to be the Mata Redonda; that during the time that he had lived there he collected ground rent for Mr. Patterson from people that lived there and that they all paid, and never made any objection to payment; that he was there two years before Mr. Patterson acquired the property; that Mr. Jose Zayas Batista was in possession then; that he collected rents for Mr. Patterson from Dionisio Ortega, Santiago Ariza, Mateo Ariza, Almanca Caballero, who subsequently [sold] his improvements to Mr. Aleman; that he collected rents from all the people who lived up to the fence line that he repaired from the Mata Redonda to the Algarrobo Hill; that the oldest resident there at the time was Pancho Ariza who paid rent and had been living there 28 years up to the time of building the fence in 1907; that this Ariza is the grandfather of the other Arizas and a brother of Pablo Ariza; that he collected rents from all the Arizas; that Pancho Ariza paid rent all the time up

to the time of his death and that he died at Mata Redonda; that the road leading from the City of Panama going to the chapel crossed a creek known as Bano Bello at Camino Nuevo; that the new road from Panama to the chapel crossed Bano Bello at a point along the line marked "J—K" on the map; that it does not cross the Rio Hondo; that the Rio Hondo at its northeast point to the place called Mata Redonda is about 800 to 1,000 meters [away]; that the place known as Rincon Escondido is situated in a curve of the Rio Hondo which makes a half moon.

Cross Examination.

That he is 45 years of age and related to the defendant as second cousin; that the mother of the defendant was a sister to his father; that when he was 20 years old he lived in Mata Redonda, and when he was
428 15 years of age he went there; that he worked for Mr. Juan Navarro two or three months; that he doesn't remember when; that during the three years, 1899, 1900 and 1901 he was at Mata Redonda; that he had joined the revolutionary forces; that he was three years in the army and his wife had lived at Mata Redonda; that he went there to sleep every night; that he was on the staff of General Alban; that he knew the kitchen that Mr. Patterson has close to the ruins of the chapel; that there was no other house there at the time except the kitchen that Jose Zayas Batiste built; that he knew Pancho Ariza from the time that he went to Mata Redonda up to the time of the latter's death; that Pancho Ariza had lived at Mata Redonda and had paid for twenty-six years prior to his death; that he knew it from the contracts made with the owners of Mata Redonda; that he began to know him

after he went there, when he was 16 years old and that he used to pay all the time; that from the time that he knew him up to the time of his death, he knew that he paid rent to Mr. Patterson; that everybody including the members of his family stated that he had done so for twenty years; that he could not tell in what year he first knew him; that it might have been four or five years after he went to Mata Redonda; that he could not state how long ago that Mateo Ariza began to have improvements on Mata Redonda; that the Rio Hondo is not within the estate that forms the subject matter of this litigation; that the headwaters of the Rio Hondo is entirely within; that the purpose of building the fence was to run along the entire limits of Mata Redonda, cutting the Algarrobo Hill and the slope thereof; that the fences run alongside the road and follow the fence alongside of the road up the slopes of the Algarrobo; that along that place where he made the fence there were traces of a fence made by Domingo; that when he reconstructed the fence there was an old fence there and no one disputed that piece of land; that the fence was not within the estate of Lo de Caceres; because the division was considered as the Camino Real, in the direction of it; and that they did not dispute that piece outside the boundary lines of Mata Redonda, that he knows the Tesorera Creek which is on the slopes of Algarrobo; the Tesorera Hill was situated in the Lucha Franco property; that Algarrobo Hill is on the map (indicating Cerro Algarrobo, No. 3); that it has always been known as Algarrobo, because there is a little village there called Algarrobo, and that he has always known one Algarrobo, meaning the town of Algarrobo; that they never called the hills 1, 2 and 3; that he knew the hill No. 3 where the town of Algarrobo was; that going from Panama to Porto Bello the Pena Hueca

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claimed by Mr. Patterson is on the left, and coming towards from Mata Redonda is in the bushes; that the Mata Redonda is about ten feet from the rock; that standing in the road one could not now see the rock.

Re-Direct Examination.

That Cerro Algarrobo is but one hill, a large hill, extending over quite a considerable length of territory and somewhat long.

Re-Cross Examination.

That he remembered having made a statement in the Circuit Court of Panama, the same being as follows:

"The Albarrobo Hill is the first one that is close to the road, near the settlement of Algarrobo. I base my opinion on the fact that I have been living there 30 years that I know that place, and I have heard the inhabitants call that place "Algarrobo Hill'. This hill is the same one that on the map is designated as "Algarrobo No. 3". The hill that is designated with the name of Algarrobo No. 1 has for a name the Hill of "La Tesorera", because there is a creek of that name rising at that point."

430 (Witness continuing): That the Hill of Tesorera is in the Lucha Franco estate and is a large hill; that the Quebrada Tesorera is a stream that divides Lucha Franco and Mata Redonda, and rises at a point half way between Allgarrobo Hills 1 and 2 (indicating the point marked "F" on defendant's exhibit "X"); that the Tesorera Hill is on the other side of the stream; that Tesorera Creek has its rise between these two; that he is surprised that he ever made the statement in Panama.

ALEJO VILLAREAL, the fifth witness called on behalf of the defendant, after being first duly sworn upon oath testified as follows:

That his name is Alejo Villareal, 27 years of age, born in Lo de Caceres, opposite the Mata Redonda; that he had known the spot called Mata Redonda from very young; that it is a round bush; that he had never heard any other place being designated as the Mata Redonda; that he knows Mr. Domingo Diaz and that he had built a fence for Mr. Domingo Diaz; that the fence was running along the right hand side of the road from the Mata Redonda to the Algarrobo Hill on the other side of the road from the fence that Mr. Patterson had reconstructed; that Mr. Diaz told him at the time of building the fence to continue the Tesorera Creek, to follow that to the Paso Real; that he told him to put his limit there as the boundary; that he did not say anything to him with reference to crossing the road with the fence; that these fences had been there a great many years—Mr. Diaz on one side of the road and Mr. Patterson on the other; that there was never an older road; that he knew the place called Bano Bello; that the road running from Panama to the old chapel did not cross the creek of Bano Bello; that he is familiar with the road from the house of Mr. Patterson to the chapel; that it runs near the Bano Bello creek; that the place where it crosses the Bando Bello creek is called Rincon Escondido; that he himself had lived on Lo de Caceres; that the
431 road goes up to Mata Redonda—into the Mata Redonda; that that road was the boundary for the part outside Mata Redonda; that the road was the boundary line between the estates of Lo de Caceres and Mata Redonda.

Cross Examination.

That he built the fence for Mr. Diaz about four years and some months ago; that he worked for Mr. Alguero carrying instruments as he was an engineer; that he carried the instruments on his shoulder to the stream Tesorera; that he did not pass Mocambo or go as far as that; that he had known the estate of Mata Redonda from [the time] he was very small as he was born in front of Mata Redonda; that he remembers about 15 years.

MATEO ARIZA, the sixth witness called on behalf of the defendant, after being first duly sworn, testified as follows:

That his name is Mateo Ariza, 31 years of age, both in Algarrobo on the lands of Mata Redonda; that he has lived there ever since, except one year; that he had paid rent always to Medrano who was the collector of rent for Mr. Patterson; that he had never heard during all this time of anyone asserting ownership to the lands; that he knew the spot called Mata Redonda; that he knows the fence that runs to the Mata Redonda, being an old fence; that he was raised on the place where they built the fence and grew up there; that it was old when he first saw it and that he saw Mr. Patterson repair it; that he knows where the ancient pass of the Rio Hondo is; from the Mata Redonda the pass goes to the Rincon Escondido and from the Rincon Escondido to the chapel; that the crossing of the Rio Hondo and the Ancient Pass is a hectare and a half from the spot known as Mata Redonda; that he was living there during the lifetime of

his grandfather Pancho Ariza; that Pancho
432 Ariza died when he was a child; that Pancho Ariza paid rent to Mr. Patterson; that some of his neighbors were Felipe Ariza, Santiago Ariza, Justo Masquero, and Pablo Ariza; that all of them paid rent to Medrano as agent of Mr. Patterson.

Cross Examination.

That he had seen these people that he mentioned pay rent; that he paid in work always; that he had never seen any money; that he knows of his own knowledge that they paid in work rather than in money; that he also worked to pay in the same way, and the others told him that they did the same and that it was because of that that he knows it; that he worked the price of the rent of the land that he could not tell how many days in the year he worked; that from 1910 on he paid; that he did not see Pancho Ariza pay rent but that he said he paid rent; that he had been to the ruins of the old chapel and that it is necessary in going from Panama to the ruins of the old chapel to pass by the Rio Hondo; that he lived in the Canal Zone for a short period and afterwards in the Republic; that prior to 1910 he lived on the land; that he paid rent there in work; that when he was 20 years old he worked for his own account; that he was born and brought up in Mata Redonda and started working from [the time] he was about 20; that being about 10 years ago; that he knew the house that Mr. Patterson had alongside the Mata Redonda.

Re-Direct Examination.

That there was a house located near the spot known to him as Mata Redonda, the same being an old house;

that they made a new one there; that he did not know who built the old house; that Medrano lived in it in recent years; that he does not know how long he had been living in the house but that it was a long time; that it is situated about a hectare from the place known as Mata Redonda.

433 Re-Cross Examination.

That he had never known the house close to the old chapel; that he had gone to the chapel; he had passed there on his way hunting; that he had known Medrano from the time that he first had reason.

ALFRED REED, the seventh witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That his name is Alfred Reed, 58 years of age; that he lived on the property of Mata Redonda; that he did not know how many years he had been there but he had been there 27 years now; that when he started to work there he paid rent to Mr. Patterson; that he continued paying rent during the time that he occupied those lands; that he knows the spot called Mata Redonda, it being a round clump with a large rock in front of the house on the property; that that is the Mata Redonda and the two houses are just in front; that the houses are about six chains from there; that he had never known any other spot to be the Mata Redonda than that; that the old fence begins at that spot and runs along the Mata Redonda road; that he had always heard the fence to be the boundary between Lo de Caceres and Mata Redonda; that the fence was there during the 27 years that he had

been there and had been washed down and they repaired it again, always; that all the stakes are growing trees and the fence is there all the time; that the fence was there 27 years and had been there before that.

Cross Examination.

That he knew the ruins of the old chapel; that he never saw any house there; that when he went there he saw the building without any roof, which is there now, but he never saw any house; that he did not
434 hear Mr. Medrano state that there was a house there; that he very seldom went there; that when he went there there was no house; that he did not go up there very often, but that he knew where it was; that there were pastures in the neighborhood of the spot claimed by Mr. Patterson as the Mata Redonda; that the pastures were fenced; that some of the fences wanted repairing; that those were the pastures of the chapel; that there were other fences near the old chapel; that there were several old fences near the old chapel; that he had noticed a fence from the headwaters of the Platanar to the old chapel passing this side of the chapel towards the north but he did not know in which way it went to the headwaters, as there were several fences there; that he knew where the headwaters were there was a fence running from the big rock close to the chapel towards the north and that he thought that it was a pen or corral that was fenced around; that it was now washed out but there was a fence there; that the wires were still there; that there is a flat rock near the old chapel; that he did not notice any holes in it; that it has no bush around it that there is bush there, but that all the place has bush; that he lived at the entrance of the gate near the Mata Redonda; that he lived in the house

in front of the Mata Redonda; that before he went there he lived in Pubelo Nuevo, and before that he lived with Adolfo Aleman; that in going from the City of Panama to the chapel it is necessary to cross the Rio Hondo; that he knew the old road of Mata Redonda; that the road is between Rio Hondo and Bano Bello; that he had to cross the Rio Hondo to go to the chapel; that he thinks the place where it crossed the Rio Hondo is more than 200 yards from the chapel; that he did not know Jose Zayas Batista; that Mr. Patterson was the only owner of the various pastures located in the neighborhood of the place called Mata Redonda; that he knows the place of Mr. Aleman called "Alemania"; that Mr. Aleman fenced it around; that Mr.
435 Aleman bought the field from Felix Gomez; that he bought the plants but not the land; that Mr. Patterson's fence was around about it; that there was no other fence there.

Re-Direct Examination.

That Felix Gomez who sold the improvements to Mr. Aleman paid rent to Mr. Patterson.

Re-Cross Examination.

That he never actually saw him pay rent; that he showed him the receipt for the rent that he paid to Mr. Patterson: but that after he sold to Mr. Aleman he did not know whether Mr. Aleman continued to pay rent to Mr. Patterson or not.

FRANCISCO JAEN, the eighth witness called on behalf of the defendant, after being first duly sworn, testified upon oath as follows:

That his name was Francisco Jaen, 38 years of age, a resident of Pueblo Nuevo on the Sabanas Road; that he had lived on the Mata Redonda property 19 years prior to 1909; that he always worked on the lands of Mata Redonda; that he paid rent during that time first in money and then in work to Mr. Patterson; that he knew the spot called the "Mata Redonda" and had been familiar with it since he was a little boy and afterwards came to know it himself; that it is a round bush in the plain within which there is a hollow rock; that there is a fence in the place beginning there; that from the time that he knew the place called Mata Redonda he had known the fence; that the fence was the dividing line between Lo de Caceres and Mata Redonda; that he was acquainted with the people who lived on the same side of the fence that he lived; that he knew that they paid rent to Mr. Patterson because they told him so;
436 that outside of them everybody else stated that they paid rent to Mr. Patterson and that they worked for Mr. Patterson, to pay the ground rent for the year; that he knew a house that was located near the spot that he knew as "Mata Redonda"; that he had known that house from the time that he knew the place; that Mr. Patterson had been living in that house during this period; that he had never known of any other place except the one designated by him as Mata Redonda.

Cross Examination.

That he had never heard of any dispute between Mr. Patterson and Mr. Diaz; that he had never been ousted

from the lands; that he had never tried to collect rent from any of his neighbors alleging that he was the agent of Mr. Diaz; that he collected from the lands that he had rented to Mr. Amado in Llano, Largo; but not near Mocambo; that it was between Mocambo and the City of Panama; that he knew a part of the lands of Lo de Caceres; that Mr. Amado did not tell him that the lands for which he was collecting rents were part of those of Lo de Caceres; that Mr. Arosemena never went to see him and expelled him from the premises; that Mr. Diaz had brought him to the police station to be notified by the authorities to get out of the place two years before; that he had gone to the Alcalde at the instance of Mr. Diaz; that he was not ordered to get out of the estate; that he left because Mr. Diaz collected rents which did not suit him to pay; that he had collected rents in order to pay Mr. Amado and had a right to do so; that he never stated to the First Circuit Court of Panama that Mr. Diaz had expelled him from the lands of Lo de Caceres; that he had never gone with Mr. Diaz to any Court but that he had gone to the Alcalde; that Mr. Diaz did not throw him off the lands but he went because it suited him to do so.

437 Re-Direct Examination.

That the lands that he had difficulties with Mr. Diaz concerning the occupancy of were not the same for which he paid rent to Mr. Patterson; that there is a river and a road between them; that the road is the Camino Real which runs alongside the old fence and that the lands that he had trouble with Mr. Diaz about were on the far side of the road from the lands of Mr. Patterson.

Re-Cross Examination.

That for the time of a year he did live on the lands of Lo de Caceres; that then he paid rent to Mr. Diaz in 1909; that at that time he worked on Mata Redonda but did not have a house there.

Re-Re-Direct Examination.

That he had a farm in Mata Redonda but did not have a house there; that at the time he was living in a house on Mr. Diaz' land but was paying rent to Mr. Patterson for his farm on Mata Redonda; that the house was far from Mr. Patterson's fence.

JOSE CONCEPCION DIAZ, the ninth witness called on behalf of the defendant, after first being duly sworn, upon oath testified as follows:

That his name is Jose Concepcion Diaz; that he is 40 years of age; that he had never lived on the property of Mata Redonda but had worked there for three years about four years ago; that before that he had been on the property; that he first went there to see a cousin of his; that he lived near the property in Lo de Caceres; that he was brought up on Le de Caceres; that he was born in Lo Loceria; that La Loceria and Lo de Caceres were two distinct places; that while he worked
438 on Mata Redonda he was familar with a certain old fence that ran from a point known as Mata Redonda; that the house of Mr. Patterson was close to the bush of Mata Redonda; about 25 or 30 meters away; that a meter is 39 inches; that he does not know about meters and cannot state precisely; that the old fence

began at the Mata Redonda near the house of Mr. Patterson; that that road ran parallel to the fence; that he had known the road from the time that he knew Mata Redonda; that he lived on the lands of Jose Maria Paredes de Garcia, sometimes on the left hand side of the road and sometimes on the right hand side; going from Mata Redonda to Lucha Franco; that the road that ran from Mata Redonda to Lucha Franco was the boundary line between Lo de Caceres and Mata Redonda; that he had paid rent to Mr. Guillermo Patterson for three years; that in that time he was on the right hand side of the road; that he knows where the Mata Redonda is; that he knew where the Lucha Franco was; that Mata Redonda is on the left hand side of the road; that he knew where Bano Bello creek was and the old chapel; that going from Panama it is necessary to cross the Bano Bello creek to go to the chapel; that it is not necessary to cross the the Rio Hondo; that at the place known as Mata Redonda there are several rocks; that the larger rock has a hollow underneath; that the rock was taller than he (the witness), and that it had a sort of an arch inside; that a man cannot enter it standing up but he can crawl in it and not fit very well; that it is not observable very far because it is very dirty.

Cross Examination.

That when he went to live at the place all the people said that the road from the Mata Redonda to Algarrobo Hill was the dividing line between Mata Redonda and Lo de Caceres; that the other road of which he spoke is from Panama to there or from Mata Redonda to Lucha Franco; that the new road is the one that goes
439 along Lo de Caceres; that the old road goes along Tumba Muerto from San Juan to Pequeni; that

it does not go through the estate of Mata Redonda; that the old road used to pass along the other side of the estate of La Gloria belonging to Adolf Aleman on the lower part or back part, and that thereafter it went in the direction running alongside of Mata Redonda; that he knows where the Paso Real of Rio Hondo is; that going along the old road at Rio Hondo you can get to the chapel; that it was necessary in using the old road to pass the Paso Real of the Rio Hondo; that he knew a Spaniard who lived near his place and who had a sugar cane plantation; that his name was Gomez; that he had never had a dispute with Mr. Diaz by reason of that Spaniard; that Mr. Diaz did not attempt to eject him from occupying that place he was now occupying in Lo de Caceres; that he has no cattle; that he did have some; that he never had any trouble with Mr. Diaz with reference to cattle; that Mr. Diaz spoke to him about putting his cattle under fence that he had been a Policeman for three years to October 1st of this year; that he knew Mr. Paredes; that he had never paid land rent to Mr. Paredes.

JUAN FRANCISCO PATTERSON, the tenth witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That his name was Juan Francisco Patterson, 33 years of age, a resident of Panama practically all his life; that he had been to Mata Redonda and knew the spot called Mata Redonda which is at the entrance of the estate of Mata Redonda where the main road leads into Mata Redonda from the place called Lo de Caceres; that it was a round bush with a rock there standing four or five feet [wide] to twelve or sixteen feet in height; that

the rock is inside the place; that the two fences meet there; that one goes to the Algarrobo and the other right into the place which he understood to be Mr. Aleman's place; that there is a hole underneath the rock from one foot and a half to two feet in diameter as far as he could remember; that the house of Mr. Patterson was a quarter of a mile if not less from this spot; that Mr. Patterson had lived in that house as long as he could remember; that he is familiar with the fence that begins at Mata Redonda and runs to the Algarrobo Hill; that he saw it a long time ago for the first time; that one could hardly tell whether it was new or old when he first saw it about eight or ten years ago; that there is a trail that runs along that fence—an old trail; that the people living in the community generally considered that to be the dividing line between the two estates,—the fence; that the trail is rather close to the fence in some parts; that he had never assisted in collecting any rent from the property; that he had never heard of any other spot being known as Mata Redonda in that vicinity; that he had been out there about half a dozen times on pleasure and hunting trips; that he has not remained more than twenty-four hours at any one time.

440

Cross Examination.

That he had never heard of any other spot known as the Mata Redonda; that this is the first time that he had ever heard of any lawsuit between these parties; that he had never heard of a Mata Redonda near the ruins of the old chapel; that he had never heard of a Pena Hueca near there; that he had never had any conversation with the defendant with reference to the present suit, except a few months ago; that he never heard

any claim about this land up to two or three months ago; that whether or not it was submitted to arbitration was none of his affair; that he is a cousin of Mr. Patterson; that Mr. Malsbury came to him and asked him, when he was making the map, if he knew where
441 the Mata Redonda was and he said "Yes"; that Mr. Malsbury asked him if he would go out there and show it to him and he said "No", but he took a trip out there and I said that was the Mata Redonda so far as he knew; that the distance between the two Pena Huecas claimed by the plaintiff and defendant in the case may be a mile and half to two miles and a half; that the road along the fence that belonged to Mr. Patterson is quite near to the fence; that in a general way it runs close to the fence; that he went there for the first time about ten years ago and had not been to the Mata Redonda before that time.

ALFREDO MELHADO, the eleventh witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That his name was Alfredo Melhado, a resident of Panama City all his life; that he was born there; that he was a Chemist; that he had been on the property of Mata Redonda, the last time about three months ago; that he had gone out there frequently as he used to go there when a child with some friends about the year 1899; that from the year 1899 when he had gone there he had practically no chance to there again; that he left here in 1907 and gone to the United States until 1914; that he was in the United States at the Brooklyn Polytechnic; that in 1899 when he was there he knew the spot called Mata Redonda, and to make sure that it

was the same spot he went back there and that it was the same spot; that at the time it ran alongside of the property called Lo de Caceres; the road followed up to what they called "Lo Gloria" belonging to Mr. Aleman; that at that time there was a couple of houses there; that he did not know much about the place; that they went only as far as the houses and didn't go in; that they were only there for a picnic and spent a day or so at that time; that there were trees there, bananas and oranges and trees of that sort; that there
442 was a rock at the Mata Redonda which they claimed to be the Mata Redonda; that there was a hole under the rock, or rather a rock laying on top of another, and there is a hole in there; that it seemed that there was at first a single rock, but that it was broken and water ran between them, and that in breaking one fell on top of the other, leaving a sort of hole underneath; that it looks like a bridge; that the rock had the same appearance today as it had in 1899; that he did not think it had changed; that Mr. Patterson's house was only a few feet away, about 20 to 25 feet or so; that the entrance of the property of Mata Redonda is at the spot called Mata Redonda; that he knew the hill called Algarrobo because he had seen it from afar but had never been there; that he had been at the fence that begins near the place called Mata Redonda that goes in the direction of Algarrobo; that that fence was there in 1899 and was right there now; that the old road ran alongside the fence; that nobody told him in 1899 what that fence and trail were but that he thought it marked the boundary line of the property; that his grandfather's name was Isidor Noriega; and that through relatives he knew that his grandfather was the owner of the property and had a brick factory at that place on the property and that there were some rubbish there

that shows that there was some kind of a furnace there; that the vestiges of the brick factory are behind the house near the Mata Redonda; that taking the distance from the house to the rock as twenty feet the distance from the house to the brick factory would be about 30 feet.

Cross Examination.

That in 1899 when he went there with a party of boys 13 or 14 years of age and a fight started between some of them and one of them punched him at this place and Mr. Patterson remarked that that was the furnace and that the buildings were made by his grandfather,
443 that brought to his mind that that was the furnace that his family had reference to; that the [he] saw the furnace which was about 3½ feet in diameter and about a foot and a half in depth; that he would not say it was a brick factory; that he does not know they used to build their furnaces in those days in Panama; that he does not know if brick factories and furnaces were as big then as they are today, but that that was a furnace and it can be seen from the way the brick was laid; that it may have been covered by the dirt that was brought down by the water and was smaller today; that he cannot tell how long ago his grandfather died; that his mother's age is 48 and when she was born his grandfather was already dead; that it was about 50 years ago that his grandfather died; that the bricks were all worn out and the vestiges of the bricks were still there and of the building; that there were two houses—one new and one old; that the bricks were not the remains of the house because houses were not built of brick but of frame; that he did not know if a brick house had been there; that he does not know if his grandfather had a house there; that the rock that

he called Mata Redonda could be seen from the road; that the rock cannot be seen because it was covered with bushes, but the bushes project out and you can see them clearly; that if you approach it you can see the rock itself; that he does not believe you can see the rock itself from the road; that going up on a little hill near there the rock can be seen; that he did not walk far along that fence in 1899, but saw the fence running along and did not know how far it extended; that there was another fence there opposite the house; that the other fence was another purpose but he did not know what for, to build a court yard or something like that; that he does not know whether the other fence was for any purpose or not; that he had seen the Algarrobo Hill and knew where it was; that they did not go very far in there, but walked about a half mile or so up to a little brook that was there; that they went west from the
444 place called Mata Redonda; that the Algorrobo can be seen from that point; that it is a village near a hill and they call it Algarrobo; that it can be seen from the Mata Redonda; that he himself saw the Algarrobo from there when he was thirteen years of age.

RAMIRO ARANGO, the twelfth witness called on behalf of the defendant, after being duly sworn, upon oath testified as follows:

That his name was Ramiro Arango, a resident of Panama, 46 years of age; that he first came from Cuba when he was 8 years of age; that he was born in Cuba; that he then went to the State of Bolivar, Colombia; that from Colombia he came back and then went to the United States and returned in 1886 and has been here ever since; that he knew the property of Lo de Caceres; that he had gone to visit the prop-

erties of Mata Redonda and Lo de Caceres; that he went to Mata Redonda 25 years ago to see some cattle as he was employed by Mr. Espinosa and Mr. Duque when Mr. Duque was the owner of the estate of Mata Redonda; that the Mata Redonda had been sold to Mr. Patterson and belonged then to Mr. Zayas, a Cuban, who had a dairy there and had business with Mr. Duque; that later he went there to see some cattle that belonged to Mr. Patterson, some cows for butchering; that he only stayed on the property a few hours as he went to look at the cattle and came back; that at that time there was a spot pointed out to him as the place called the Mata Redonda; that that was about 25 years ago when he went by there; that the first time he went there he passed through Lo de Caceres and on the next time through Pan de Azucar, taking the road near Tumba Muerto where both trails meet where one went to the old house of Mata Redonda; that at the entrance to the property there was an old house, and there was a small fence on the left hand side; that they used to call it Palo Trejo, and that he went through the grass
445 to see the cattle; that the spot called Mata Redonda had a sabana in front and there were some trees about and bushes,—and some big trees to the right hand side, and they call that a Mata Redonda; that he did not notice any rock; that the house in which Mr. Patterson lived was more or less 100 meters from that spot, but that he does not remember the exact distance it has been so many years ago; that at the entrance to the property at that time there was an old house; that he did not look at it but just passed by it; that it was an old residence standing on posts and had upstairs and downstairs, it had no boards, it had bricks and tiles for the roof; that there was a shed in that vicinity; that he could not tell how old it was.

Cross Examination.

That he knew Zayas Batista; that he had never had any relations with him but that he knew he was there before the property was sold to Mr. Patterson; that the first time he went there he went through that old building at the entrance; that on a hill there was a little house made of wood, made out of cigarette boxes and back of it was an old chapel; that there were bricks or something; that he thought it was an old chapel; that it had big stones and bricks like the old Spaniards used to build; that there was an old house in front and there was a small house in front made of cigarette boxes that came from Cuba; that it was made up on posts or boards; that it was a small house and at the back of it there was an old chapel from the times of the Spaniards; that he did not think that at that time it was belonging to Mr. Zayas.

446 SALVADOR DIAZ, the thirteenth witness called on behalf of the defendant, after being first duly sworn, testified, under oath, as follows:

That his name is Salvador Diaz, 42 years of age; that he had lived on the Mata Redonda property for 15 years; that during that period he paid rent to Mr. Patterson, senior; that Mr. Medrano was the collector; that he paid by work; that he knew the spot called the Mata Redonda; that it at the arrival or entrance to the place about a hectare and a half from the house of Mr. Patterson; that since he had known the place there was a fence on the lower part; that on the right hand side there was a fence there going on the road to Porto Bello; that on the lower side the fence ran along the road, and was

about 60 feet distant from the road; that there were some old people living on the place but that they were on the Lo de Caceres side; that Lo de Caceres was on the right hand side and Mata Redonda on the left hand side or going from Panama to there—from Mata Redonda to Lucha Franco; that the road goes from Porto Bello to Lucha Franco straight on until you come to Tesorera Hill; that Mata Redonda was on the left and Lo de Caceres on the right on that road from Humba Muerto to Porto Bello; that the road ends there and goes out to Porto Bello; that that Tumba Muerto-Porto Bello road passed by the spot called Mata Redonda; that he knew Bano Bello Creek and where it was and where the old chapel was; that in taking the new road that goes from the City of Panama it is necessary to cross the Bano Bello Creek; that the old road that crossed the Rio Hondo at the placed called Paso Real went out at Rincon Escondido; that that is the one called "El Paso Antiguo"; that this is a road separate and distinct from the new road that crosses the Bano Bello Creek, the new road being on the right, and the old one on the left; that he knew the house of Mr. Patterson; that it was located near the Mata Redonda and had a tiled roof; that he does not remember it very well;
447 that it had been there ever since he had known the place; that during the years he had not known any other spot to be called the Mata Redonda.

Cross Examination.

That he was brought up in Mata Redonda, working there and going on the farms; that he had gone out farming to other places and had returned there; that he had been to Pacora, Chepo and other places and had re-

turned; that he only remained in Chepo two or three months; that he was a navigator and sailor and went from one point to the other; that he was a sailor for three and a half years; that he is now working on Mr. Patterson's land and had been there six years; that he worked for him two times; that he worked for him when he had the dairy there, but at that time he was not paying rent to him; that he started paying rent to him six years back; that he had been working for him 15 years, and started to pay rent 6 years ago, every year paying in work and labor; that he is living on his land now outside of the Canal Zone; that he knew the ruins of the old chapel; that he had gone there; that he knew the old fence running from the hollow rock near the chapel, starting in the direction of Mocambo; that he had known it from the time that he had been there and that it had been reconstructed; that he remembered the old chapel and the big rock close to it at Mata Redonda; that he did not know a big rock near the ruins of an old chapel; that he had been to the old chapel; that he had seen the fence close to the old chapel; that he did not know where the fence started or went; that it is distant from the chapel; that he went there hunting but does not know when it was built because he was not there at the time; that he knew it after he had been on the place; that he knew the fence that went from the chapel towards the headwaters of the Platanar and that it was an old fence that had fallen down; that only the wires could be seen
448 because it had been burned up; that there were some live posts there, because there were some mango posts there where you can see the wire print in there; that the boundary leaves from San Jose to Pan de Azucar; that he meant that the line of San Jose with Pan de Azucar is the land of Mr. Patterson; that

that line went by the chapel on the lower side; that the fence that starts from the headwaters of the Platanar goes on back of the chapel to the River Cardenas; that La Barsa lived on the lower side of the Tigri; that he knew the fence that went from the back of the chapel to Isidora La Barsa; that he does not know who built it.

Re-Direct Examination.

That he knows where the headwaters of the Platanar are; that they are close to the old chapel.

SAMUEL LAMBERT, the fourteenth witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That his name was Samuel Lambert, 50 years of age; that he lived on the property known as Mata Redonda for 20 years, paying rent to Mr. Patterson during all that time; that he lives on the Mata Redonda property yet; that William Collo and Dionicio Ortega were some of his neighbors, and that Henry Blackwell had lived at Chivo Chivo; that he knew Justo Mosquera and Alfred Reed; that he knew they all paid rent to Mr. Patterson.

Cross Examination.

That he was there when they paid rent; that he was living close to the Cardenas River in Chivo Chivo; that at first this was in the Canal Zone but after they turned him out Mr. Patterson gave him liberty to come to the other side to live; that he lived near a man called John

Puello; that John Puello lived at about the
449 place indicated on the map; that he lived near the Cardenas River the first time.

DIONICIO ORTEGA, the fifteenth witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That his name is Dionicio Ortega; that he lived in Mocambo; that he had lived on the Mata Redonda property; that he was 42 years old; that he had lived 17 years on the Mata Redonda estate paying rent to Mr. Guillermo Patterson in money; that he did not know Henry Blackwell, but that he did know Francisco Jaen, Santiago Ariza and Mateo Ariza, also Justo Mosquera; that he did not know Vicente Villareal; that he knew Felipe Hernandez; that these people paid rent to Mr. Guillermo Patterson but that he did not know for how long; that he does not know for how long they lived there.

Cross Examination.

That he lived in Chivo Chivo and when they asked him to go out of the Zone he went to a place called Candelaria, which they call Mocambo; that when he was living in Chivo Chivo he paid rent to Mr. Guillermo Patterson; that Chivo Chivo was alongside the Cardenas River; that he did not know how far away it was from the Rio Hondo; that he did not know where the Rio Hondo was; that he was far from the place where Mateo Ariza had his plantation; that the place where he had his finca was on the same lands as Mateo Ariza; that he was higher up than Mateo Ariza; that his place

was near to Mocambo, nearer there than to the Mata Redonda; that he was near the place belonging to Juan Puello; that he was a neighbor of Samuel Lambert.

450 Re-Re-Direct Examination.

That he was a neighbor of Samuel Lambert, because he lived at Chivo Chivo, before the Zone people were made to go out; that Chivo Chivo was only a little place, and when he arrived there only Samuel Lambert was there with his wife and his mother-in-law.

Re-Cross Examination.

That when he went with Mr. Diaz to Mocambo he told him that he did not pay rent to anyone because it was to his interest to tell him so, and that it suits his interest to tell the truth.

DOMINGO RUIZ, the sixteenth witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That his name was Domingo Ruiz, 56 years of age, that he worked on the estate of Mata Redonda, first being sent there by Mr. Duque; that he worked under Mr. Zayas there in 1887, working on a shed that they had for calves; that he made the shed there; that he is a carpenter; that he went out there for the purpose of building the shed; that he remained there about a month; that he next went there in 1890 under the orders of Mr. Duque; that Mr. Patterson at that time had made the purchase; that he was taking care of the place at that time; that he remained there for seven months super-

vising it; that he made a fence there or continued an old fence that had been there a long time; that the fence in 1890 ran from the old house that was down there below, taking the line going up to the Algarrobo Hill; that the house to which he refers was one of Mr. Zayas'; that Mr. Zayas lived in the old house below in 1887; that Mr. Patterson went above there and made a place to tie out the stock, that the fence ran
431 along the road that went to Porto Bello; that that was known as the Porto Bello-Panama road; that the line he followed were by the orders of Mr. Duque at the time; that the line he followed was considered the boundary line between Lo de Cacres and Mata Redonda; that he did not himself know what the boundary line was; that the spot called Mata Redonda was in front of the old house; that the fence that he repaired began near the old house; that the house was about 30 meters more or less from the point called Mata Redonda; that when he repaired the fence it looked like an old fence that had been there; that he constructed another fence on the pasture land inside; that he constructed the one near the ruins of the old chapel by orders of Mr. Duque in order to divide the pasture; that it was not a boundary fence, but an inside fence to divide the potrero inside the property of Mata Redonda.

Cross Examination.

That there was a fence near the chapel when he went there; an old fence built by Zayas; that he was a caretaker of the place for seven months when they had a discussion about the property and then Mr. Patterson came and took charge of the property; that he remained there until he received it; that he had been in charge of it when they had a dispute between them and he after-

wards had charge of it when Mr. Patterson purchased it; that he made the delivery to Mr. Patterson; that when he went there to build the shed he did not do anything except his carpenter work; that the shed he built was near the ruins of the old chapel; and that the house for the caretaker was a little removed therefrom,—about 100 meters away; that there was a pasture but he did not go outside the land; that the pasture was inside the land; that he walked along the fence from the pasture; that he did not know where the Rio Hondo was; that the Bano Bello was below the old house, going towards the Chapel; that he was only at Algarrobo Hill and did not know where Mocambo was; that he only knew of one Algorrobo Hill as he was out there only a short time; that he saw no ruins of a brick factory; that some people kept cows at the place at the time he was there in 1890; that only small cows were kept in the shed by the old chapel.

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MARTIN ALMANZA CABALLERO, the seventeenth witness called on behalf of the defendant, after being first duly sworn, upon oath testified as follows:

That his name was Martin Almanza Cabellero, 38 years of age; that he had a plantation near the City of Panama on the lands of Mata Redonda; that the owner of it was Guillermo Patterson; that he executed a contract of lease about a month before he left the place; that he was there about two or three months but could not state exactly how long; that the instrument showed to him bore his signature and was the original contract of lease entered into between him and Mr. Patterson.

Here lease introduced in evidence as defendant's exhibit "Y," being the lease entered into between Mr.

Guillermo Patterson and the witness, dated Panama, January 1, 1902, the same reading as follows:

DEFENDANT'S EXHIBIT "Y."

Know all men by these presents, that we the undersigned, to-wit: Guillermo Patterson in his own name as owner of the lands of "Mata Redonda," as party of the first part and M. Almanza Cabellero in his own name as party of the second part, have hereby made and entered into the following Lease Contract; (1) Guillermo Patterson leases to M. Almanza Caballero a parcel of land within his estate of Mata Redonda which parcel of land measures one cabulla. (2) The length of lease is one year from the first of January of
453 the current year and it may be extended for one year more should the parties so agree a month before hand. (3) The tenant is not allowed to sublet neither the whole nor part of the land without a written consent of the landlord. The violation of this clause means by itself that this contract has been automatically dissolved, without any Court decree being necessary to that effect at the landlord's option. (4) Should the landlord need the farm or should he need the leased land for any particular purpose, whichever it may be, this contract will be dissolved by the sole notice given one month in advance by the landlord to the tenant. (5) In case this contract should be dissolved and ended by any of the ways mentioned in the above clauses, the tenant has the right to take away or destroy any buildings, plantations or improvements of any kind which he might have done on the land, within five days after the contract has been dissolved, but the landlord is hereby released from payment for said improvements

or for torts or damages of any kind. Should the tenant abstain from demolishing, taking away or otherwise destroying the improvements, plantations and buildings referred to in this article, the landlord may do it and this act will lay upon him no responsibility as the tenant confers herein upon him or his representative enough and sufficient authority to do so. (6) The tenant is not allowed to make charcoal kilns, nor to clear a larger portion of land than the parcel herein specified, nor will be be permitted to take out kindling wood for sale but for his personal use only. (7) The rent will be annually, per hectare, payable in advance. Lack of payment on time will be sufficient cause for dissolving this contract should the landlord so desire, and the tenant will be subjected to conditions specified in the preceding clauses. Whenever the landlord should deem it convenient he may accept instead of the cash payment its equivalent in work at the rate of one days' work for each $1.50. All constructions, plantations or improvements on the leased land will be sold in the case
454 of non-payment, to pay the rent and cover damages and costs done to the landlord through the breach of this contract.

Panama, January 1st, one thousand nine hundred and two.

(Signed) M. ALAMANZA CABELLERO.
(Signed) G. PATTERSON."

(Witness continuing): That the plantation that he had was on the left hand side of the road going from Panama towards Porto Bello, contiguous to the road; that he transferred his rights in the plantation to Mr. Adolfo Aleman; that that only included the improvements because he did not own the land, but merely the fence and the plants.

Cross Examination.

That it was in 1905 more or less when he had the plantation; that he was only there a little time—two or three months, more or less; that Mr. Diaz did not claim rent from him, that Mr. Diaz told him those lands belonged to him and that he told Mr. Diaz he was only a few months there and that he was ready to pay rent; that he did not pay him; that he lost a cow and everything that he took there and for that reason he did not pay; that he told Mr. Patterson when he left there that he considered that he had a right to the land rents; that he recognized that he was indebted to him for the land rents; that he stated to Mr. Diaz at the time of the controversy that he was ready and willing to pay to the person who would ultimately be proven to be the owner of those lands.

455 ISMAEL DORSEY, the eighteenth witness called on behalf of the defendant, after being first duly sworn, testified as follows:

That his name was Ismael Dorsey, 39 years of age; that he had lived on the property of Mata Redonda; that he could not say in what years he had lived there because he was young when he moved from Lo de Caceres; that he left there in about 1910 and that he is now 39 years of age; that he worked on Mata Redonda as a dairyman for a month or two and that at that time he was 12 years of age; that from that time on he had known the spot called Mata Redonda and that it is situated near by the old road that went from Tumba Muerto up to Casa Larga, and San Juan Pequeni; that that is the same road that went from Panama to Porto

Bello; that there was an old fence running along that road; that the fence was on the lands of Mata Redonda; that there was an old house near the spot which he knew as the Mata Redonda; that the house belonged to Mr. Guillermo Patterson who lived there and there was a house for the laborers and dairymen who were employed by Mr. Patterson.

Cross Examination.

That he was only connected with Mata Redonda for a few months, but he lived for a long time on Lo de Caceres; that he knew Casimiro Reyes and Aurelia Vega; that Casimiro Reyes is the father-in-law of Aurelia Vega, or the step-father; that Aurelia Vega was single; that Aurelia Vega was living with him; that Domingo Diaz had asked for an ejectment of Casimiro Reyes from the land that Aurelia Vega had not rented from him; that it belonged to her by prescription and long possession; that she was not in the lands of Lo de Caceres; that she was not ordered by means of a suit to leave the property and did not abandon it; that the litigation was still pending.

456 MANUEL C. DE LEON, the nineteenth witness called on behalf of the defendant, after being first duly sworn, testified upon oath as follows:

That his name was Manuel C. de Leon, a resident of Panama, 56 years of age; that he knew the spot Mata Redonda; that he went to make an inscription on the stone in 1891, but he could not state exactly the month; that it was during the rainy season; that he inscribed "Mata Redonda" or "Pena Hueca" on the stone; that

he inscribed it at the request of Mr. Guillermo Patterson; that he remained there not even two hours; after breakfast he returned to Panama; that when he arrived at the property there was a large bush, and inside that bush was a large rock, and there was where he made the inscription; that nearby there was an old fence; that he did not remember anything else and did not move from the spot where he did the work; that there was an old house near the spot where he did the work with a tile roof and on large posts, which Mr. Patterson occupied.

Cross Examination.

That his business was to make inscriptions on stones, and that at that time he engraved on marble and stone; that Mr. Diaz knew him very well; that in 1898 he was living in Chorillo next to the cemetery; that in 1886 he was living in the same place; that he was employed to paint crosses and engrave and make inscriptions on stones and was working in marble; that he did the work in 1891 but could not state the month; that at that time he was employed in the Cemetery painting crosses and putting parts on the numbers on them; that in 1886 he was also employed in the Cemetery; that in 1898 he was working in the Cemetery when Francisco Alvarado was the chief in charge; that he did not need to have a conversation with anyone to recall what he did; that he only remembers having done the
457 work; that he had no conversation with Mr. Patterson except to pass the time of the day with him; that Mr. Patterson merely requested him to come and testify in regard to the work that he did at Mata Redonda; that he asked him if he remembered the work that he did in such and such a year and he said

he remembered very well; that he asked him if he had remembered when he did the work and he said "yes;" that it was in 1891 in the rainy season."

FELIX A. ALVAREZ, the twentieth witness called on behalf of the defendant, after being first duly sworn, upon oath, testified as follows:

That his name was Felix A. Alvarez; that he lived in house No. 12 Avenue B., City of Panama; that he worked in the Canal Zone police force from July 5, 1905, until he was let out in 1911 as Chief of the Sabanas Section; that during that time he had occasion to go over the country in the section of which he had charge, and knew the dividing lines and boundary lines corresponding with the road at that time; that Lo de Caceres and Mata Redonda were under his jurisdiction; that he knew the spot called Mata Redonda; that it was on the lands of Mr. Patterson and it remained on lands that formerly belonged to Mr. Paredes; that there is an old house there with a tile roof and there was some bush there, a round bush; that he knew the fence that divided the land of Adolfo Aleman and Paredes; that that fence began at the spot called Mata Redonda; that he knew the Bano Bello Creek; that it was necessary to cross the Bano Bello to go to the old chapel from the City of Panama by the new road; that he knew the old chapel and it is just ahead of some houses where Jose de Leon and Escolastica de Leon lived; that he knew Santiago Ariza and Justo Mosquera; that Justa Mosquera lived there with two brothers, Escolastico and another; that he knew Chon Fuente who lived
458 outside on the Paredes land; that he had some cultivations near Pueblo Nuevo.

Cross Examination.

That there was a barbed wire fence between the lands of Adolfo Aleman and the Paredes family.

ANDRES MOJICA, the twenty-first witness called on behalf of the defendant, after first being duly sworn, upon oath testified as follows:

That his name was Andres Mojica, an employee of the Government of Panama, a Deputy in the National Assembly for the last term and a candidate for this period; that he knew the spot called Mata Redonda; that he also knew the property called Mata Redonda; that the spot was immediately inside the entrance to the property; that it was a bunch of trees; that he knew it in the year 1910; that he could not state positively how far Mr. Patterson's house was from the spot, it was something like two blocks; that he knows the property fence that divided the property; that it ran parallel with the road that went from Porto Bello to Panama and the Algarrobo; that he knew that fence was the boundary line of the property.

Cross Examination.

That he had always heard from the residents about there that that was Mr. Patterson's fence; that he did not know where the Porto Bello road crossed the Rio Hondo; that he did not know what was called the Rio Hondo; that he had heard about it but did not know where it was; that may be he had crossed it without knowing what river it was; that he knew the house that Mr. Patterson had last there; near the ruins of

the old chapel; that he was there lately; that he had been to the ruins of the old chapel; that he
459 knew the house by reason of the political campaign that started at that time in 1910, and in order to pass through there he was told that that was his property; that apart from that he does not know anything; he does not know anything about the property.

BLAS GARIBALDI, the twenty-second witness called on behalf of the defendant, after being first duly sworn, upon oath, testified as follows:

That his name was Blas Garibaldi, 63 years of age; that he lived 15 years on the estate of Mata Redonda; that he did not remember when he left the estate of Mata Redonda but it was 15 years back; that it was during the last 15 years; that he lived in Mata Redonda 15 years; that he now lived on the lands of Mr. Domingo Diaz; that he lived on Lo de Caceres this last time 25 years.

JUSTO MOSQUERA, the twenty-third witness called on behalf of the defendant, after being first duly sworn, upon oath, testified as follows:

That his name is Justo Mosquera, 27 years of age; that he lived on the Mata Redonda property 10 years, and was living there then; that he is living above Mata Redonda now; that he had not always lived in the same place on Mata Redonda; that he lived three years on Mata Redonda prior to living in the place where he is now living; that that was before the American Government evicted him; that his neighbors at that time were

Santiago Ariza; Felipe Ariza and Mateo Ariza; that he paid rent to Medrano.

Cross Examination.

That he was a neighbor of Isidora Barsajo and Manuel Moreno; that the plantation that he had was
460 by Mocambo, distant from the Cardenas River about two miles and farther from Mocambo; that from the inside it would be on the right hand side of a line drawn from the old chapel to Mocambo; that he could not calculate how far away it would be from the line; that he could not remember when he went to live in Mata Redonda; that he had been there more or less ten years; that he did not know when the Independence of Panama took place; that he could not say in what year he went to live in Mata Redonda; that he did not know what year the present year was.

GUILLERMO PATTERSON, JR., the defendant, after being first duly sworn, upon oath, testified as follows:

That his name was Guillermo Patterson, Junior; that he lived in Panama all his life except when he went to the United States to study; that he had known the property of Mata Redonda since 1888 when he was very small; that he went there with his father who was taking care of the property for Mr. Duque at that time, for two years; that after that he left there and in about six or seven months his father bought the property and then they returned to Mata Redonda; that he knew the spot called Mata Redonda and heard everyone about the place call it Mata Redonda; that he used to play around

there, and go around on horseback; that it was a round bush and at that time had a perfect spherical shape, but now it is not quite spherical, because some of the trees have been cut from it; that inside this bush there is a large rock, and under this rock there is a hollow, in which a person could go; that it was a pretty good size hole; that a person could get inside by crawling in, not walking; that there was a fence running along the Porto Bello road at that time; that when he was a small boy he remembered his father having repaired the fence shortly after he bought the property; that in 1888 when he first knew it, part of it was an old fence
461 and the other part new; that at that time and ever since the road to Porto Bello was considered as the boundary line between Mata Redonda and Lo de Caceres; that this fence ran along the Porto Bello road; that that fence was on the property of Mata Redonda; that the Porto Bello road starts at the City of Panama and goes to Tumba Muerto; that it is now closed by Mr. Aleman's fence but that it used to go there; then it goes by La Gloria, Mata Redonda, Lucha Franco and then Lo de Caceres, San Juan Pequeni and to Porto Bello; that his father acquired the property in 1891; that he could not tell right away if anyone of the people who lived on this property in 1913 or 1914 was living on it in 1891, but he remembered the name of the Ariza family who lived there long before that, and his grand-children were born there; that Pancho Ariza's grand-children were born on the property and his family is living there yet, only at present they were outside of the Canal Zone having been ordered from there in 1913; that the Arizas paid rent to his father and that he and his father exercised acts of dominion over every bit of the property of Mata Redonda from 1891 when his father bought it, and that his father exercised domin-

ion on behalf of Mr. Duque before that date when he was there; that he didn't collect rents directly but that the people paid rent either to his father directly or through his agents and that some of them paid rent to him personally; that prior to the time that Domingo Diaz purchased the various portions of Lo de Caceres at the rate of one-ninth at a time, neither he nor his father had had any trouble as they had an agreement with the Paredes family which agreement was to place a name on the Mata Redonda; that that agreement was with Ramon Garcia Paredes, who was attorney-in-fact for the whole family; that he agreed with his father to place the name on the Mata Redonda; that he knew very well which was the Mata Redonda that his father always claimed as there was no other; that the
462 witness spoke of his own knowledge; that they also agreed that some monuments be placed on the other boundaries, on the other points in the boundary; that these monuments were to have two inscriptions, on one side "Mata Redonda" and on the other "Lo de Caceres"; that Manuel de Leon made the monuments for them, but that those monuments were never placed; that he cut the stones in shape and everything and that his father agreed with Mr. Paredes at that time to take the road as the dividing line between the properties; that the Mr. Paredes he referred to is the same Ramon Garcia Paredes who testified in this case; that he is the same one who wrote the letter and stated that he would agree to the placing of the inscriptions of "Lo de Caceres" and "Mata Redonda" on the stone; that that was the only evidence they had; that that was the stone to which he referred upon which he inscribed the Mata Redonda because his father never knew any other, and that Mr. Paredes had so stated in the sworn statement which had been filed here as exhibit "C" or "E";

that the first knowledge that he had of the dispute about the boundary line was at the time that Mr. Adolfo Aleman about 1899 ran a fence to the Mata Redonda and across the old road to the Mata Redonda, not across the old road to Porto Bello, but it is an old road that meets the Porto Bello road right where the Mata Redonda was; that Adolfo Aleman was not the owner of Lo de Caceres at the time, but a portion of known as Lo Gloria; that he had difficulties with the present owners of Lo de Caceres about the time that General Domingo Diaz died; that that was around 1912; that the first person with whom he had ever had any difficulty with reference to the boundary line was Mr. Domingo Diaz, the plaintiff in this case; that it was about the time subsequent to the issuance of the expropriation order by the President of the United States for the taking of the lands in the Canal Zone; we then learned that Mr. Diaz claimed that his old titles from 1736 gave him a line from Mocambo on the other side of the Cardenas River
463 to the headwaters of the Rio Hondo which is to the right hand side of the old road coming out from the chapel to meet the Porto Bello road; that they started discussing that point and found that he, the witness, had a title prior to that, which gave them the whole river, from the headwaters of the Rio Cardenas down to the Palangana creek; therefore he did not see how Mr. Diaz could claim ownership of that portion of the land; that they started discussing the affair and Mr. Diaz went to Europe and he came to them and spoke about suing them if they did not care to settle in a friendly way, and that they were not in a position to stand lawsuits; that they could not spend money on a lawsuit; that Mr. Diaz at that time spoke to his father and he was not present but later he spoke to him in the presence of his father; that he told them both that he

wanted to settle the dispute and wanted them to give him a piece of land, and that it was cheaper for them to settle in that way than to win a lawsuit; he also stated that he was rich, had plenty of money and could keep on suing him forever, and that he could not do that; that he thinks that that was Mr. Diaz' reason for assuming ownership of the land, but after that they tried to settle; that when Mr. Diaz would agree on some point he wanted something more, and finally they decided that he did not want to settle in a friendly way; that they borrowed some money and were ready for a suit; that Mr. Diaz had never exercised any acts of possession over the lands to the left hand side of the Porto Bello Road; that he had never collected rents from anyone on that property; that he knew positively that he had not; that he knew every man on the land and that he knew that Mr. Diaz had never collected from any of them, although he had tried many times; that Mr. Diaz had built no fences on the left hand side of the road, nor put any buildings on the property; that since 1891 his father and he as owners had been in the open, notorious, hostile and adverse possession of the lands of Mata Redonda; that he thought that Mr. Duque did the same because his father was agent for Mr. Duque and
464 that he exercised possession and dominion of the entire land; that he knew where the Bano Bello creek was; that it was between the old house and the chapel ruins in the estate of Mata Redonda; that it was necessary to cross the Bano Bello creek by the new road going from the City of Panama to the old chapel; that it was not necessary to cross the Rio Hondo from the new road going from the City of Panama to the old chapel; that Bano Bello creek empties into the Rio Hondo at some place between the old road and the new road; that the place where the old road crosses the Rio

Hondo to go to the chapel was known as "El Paso Antiguo" or "La Puente" and that the old people referred to it as "La Puente"; that he had heard Mr. Icaza, a witness for the plaintiff, refer to it as "La Puente"; that the people of the country there referred to it as "El Paso Antiguo."

Cross Examination.

That he was a Chemical Engineer, studied in the United States and obtained his first degree in 1910; that he was there in 1912; that he went to the United States in 1901 and came back on vacation; that from 1901 to 1912 he was in the United States except when he returned in the summer times; that he was 37 years of age, being 36 years old last February; that he was born February 14, 1882; that he was a little more than 6 years of age when the things which he testified occurred in 1888; that he was not quite 7; that he remembered things that happened when he was 3 years old; that he was informed about many things, and that many things he saw when he was at home during the summer; that he was informed that his father held that land and saw for himself by the deeds; that he saw that occupants paid rent and did see them paying rent; that he knew everything of his own knowledge that he had testified about; that he had been away part of a year but not all of a year; that he came to Panama in 1911 and went back towards the end of August; that he came back
465 to stay for good at the end of July, 1912; that Mr. Domingo Diaz made an arrangement with him in 1914; that in 1912 he made it with his father before he sailed for Europe; that he knew that Mr. Diaz had not collected rents on the property, because he asked every man that lived there; that if the people paid to

his father and told him that they had not paid anybody else, it was only a matter of logic to know that they did not pay to other people; that he based his knowledge on that fact, and the fact that he had seen them pay rent to his father and besides he had asked them on several occasions if they paid rent to anybody else and they always told me that they did not pay to anyone else and he knew that they paid his father; that he knows a thing of his own knowledge, for instance, if he had seen it, and he saw those people pay rent and knew it of his own knowledge; that he knew of his own knowledge that he was here, he could not be somewhere else at the same time; that he knew that there was a controversy between his father and Domingo Diaz with reference to the boundary lines of his property from 1912; that such a controversy did not exist between them prior to that date; that Mr. Aleman contended that there was a rock called Mata Redonda and he also contended that the new pass to the chapel was the old pass; that at that time he had given his proofs to the present attorney for the plaintiff in that case as well as their deeds and informed him of all their sources of proof, but that that was before the present attorney was employed by the plaintiff; that his instruments were public instruments made before the Notary and that there were many others that were not presented to the Notary's office; that he had transferred a contract to Mr. Melhado, the witness who testified in this case, and that he had no other communication with him; that in 1912 it seemed that there was an agreement between Mr. Diaz and his father to make some amicable settlement when the former should return from Europe, that when Mr. Arias was attorney for his father and himself in the Pan
466 de Azucar case Mr. Bruno was attorney for Mr. Diaz and wrote a letter to his father and

to him stating that Mr. Diaz was willing to sue them in case they should want him to do it or something like that; that they answered through Mr. Arias that they were willing to keep their word but if Mr. Diaz did not want to keep his word they were only too glad that this matter of an amicable settlement be thrown out entirely; that after that they were not bound by Mr. Diaz as he said he wanted it ended and they agreed to it; that later Mr. Diaz spoke to his father again about this affair and they agreed to hear him again; that we started by taking as a basis that the Mata Redonda would be recognized at the place where it is, and that a line between the two boundaries be recognized as going from there to the Algarrobo; that everything came along well until they came to the matter of prices; that they contended that the land outside of the Zone was worth more than the land inside the Zone, and that he and his father stated that it was just the opposite; that they decided to name three appraisers, one for each part, and the third one to decide between the two; that that was in 1914, 1915 or 1916; that Mr. Obarrio was named by Mr. Diaz and Mr. Brin by his father and him; that they were unable to come to an agreement; that one side stated one price and the other said it was twice that much, so there was a difference in the prices; that one would say $50 or $100 a hectare and the other twice as much, or $200; that the case was then to go to a third person who would decide as to prices as an arbitrator; that he did not do that but went far beyond the higher price; that he stated that the land in the Zone was worth a certain price and the land outside three times as much; that they had come to an agreement in which they could pay instead of money, with land in the Zone to Mr. Diaz and that in accordance with the decision of the arbitrator that if

they were to have given him 250 hectares, they would be compelled to give 750 hectares or three times as much as they got; that the arbitrator went outside of what he was called upon to decide and exceeded his
467 jurisdiction; that he was familiar with the deeds of the property of Mata Redonda; that he represented his father in this litigation; that to go to the ends of the Cardenas River one would have to go away beyond the lands of Mata Redonda so far as the termination of the Cardenas River; that an area enclosing in a triangle; that the lands would be a moving line to "A—P" on the map; that they were from the Mata Redonda to point "A" to point "J" in a straight line to "P", which moving southwest to south would describe the area; that the Gallanazo Hill might be at the point called monument 83, and from monument 83 to the farthest point of Mocambo; that it would leave this point from Monument 83 to "Y" on the map; that he had not drawn a line from "A" to "P" and then the Palangana, upstream as far as the Platanar and then from the headwaters of the Platanar to the Gallanazo Hill; that the hill is at Monument 83, a line to the end of Mocambo which leaves it without closing the boundary; that it lacks a line from Gallanazo Hill to Mata Redonda, also lacking another line from the Mata Redonda to the headwaters of the Platanar; that he was giving the Court an idea of the history of the title that came from the Crown of Spain; that in that way it had been bought and sold for fifty to sixty years; that the Algarrobo Hills were half a mile away from the point called Mata Redonda; that a certain instrument showed to him and marked as plaintiff's exhibit "21," bore his father's signature which he recognized, the same being introduced in evidence as follows:

468 Plaintiff's Exhibit "21."

Guillermo Patterson,
vs.
Domingo Diaz A., et al.

Slander of Title.

To the Judge of the First Circuit Court:

I, Guillermo Patterson, of age, property owner with residence at No. 51 West 14th Street of this city come now before Your Honor with due respect to beg that you compel Messrs. Elisia Arosemena de Diaz, Domingo Diaz A., and Mrs. Isabel Diaz de Jiminez, duly represented by her husband, Mr. Juan Antonio Jiminez, all of age, Panamanians, property owners, resident on J. Street near Fourth of July Avenue, opposite the National Institute, to file within fifteen days from date the corresponding suit to prove the right which they claim they have over a parcel of land which I have been occupying publicly and without interference from anyone. I base my petition on the following facts:

1. I am the owner of the estate known as Mata Redonda which is bound on the east by the estate known as Lo de Caceres belonging to the above-mentioned gentlemen and ladies as heirs to General Domingo Diaz. The boundary lines of my estate are as follows: From the spot called Mata Redonda or Pena Hueca a line to the Algarrobo Hill which is more or less a straight line following the road which leads to Lucha Franco up to the crossing of the Tesorera Creek known as "Los Tres Pasos"; thence following the said stream upstream to its headwaters (which bathes the skirts of Algarrobo Hill, Vidrio Hill and Gordo Hill where it starts). From

there a straight line to the upper part of the Penon and continuous on the hill until it reaches the headwaters of the principal branch of the Cardenas River (whose origin is at the Penon); thence it circles around to
469 the other branch of the said river known as Quebrada Larga and following this river down stream to the place where the Palangana Creek empties into it, the said creek having its origin within my estate; then following this creek upstream to the place where a creek with a stony bed which crosses the old papaya field known as the Platanar creek empties into it; following the latter upstream to its headwaters and from there a straight line to the spot called Mata Redonda or the Pena Hueca (which is within the bush called Mata Redonda; the starting point).

2. The boundary line between the estates of Mata Redonda and Lo de Caceres is the road to Lucha Franco (which is the road from this city to Porto Bello); from the spot called Mata Redonda up to where it meets the Tesorera Creek.

3. The said gentleman and ladies have wrongfully claimed that a portion of the land I possess to the west of the Lucha Franco road, the section already mentioned has been occupied by me without any right to it.

4. They wrongfully claim also that the said portion of land is a part of Lo de Caceres and therefore that it belongs to them, which is detrimental to my interest and to my authority regarding the tenants I have there.

5. This slander of title has been committed verbally before several persons, and in writing before the mayor of this city.

As far as legal rights are concerned I base this action on Articles 356, 357 and 359 of the Code of Civil Procedure.

I value this action in one thousand balboas. I hereby attach a certified copy of the writ filed by the above mentioned gentlemen and ladies before the mayor, in which they committed slander of title, and on which I base this petition.

470 Panama, November 6, 1917. (Sgd) G. Patterson.

(Witness continuing): That he did not prepare that complaint entirely as he had an attorney to help him; that on the northeast of Algarrobo Hill the Tesorera Creek starts at the foot of a hill called Tesorera which was at the point indicated; that it included the Cerro Algarrobo; that it was outside of the map filed by himself and included the hill; that he does not know whether the engineer included the hill; that he could not answer by yes or no whether his title deeds called for the Tesorera Creek as one of the boundaries; that his deeds said that the boundaries were on the north of Lucha Franco and that in order to be bounded by the lands of Lucha Franco it was necessary to include that hill; that the Tesorera creek mentioned by Lucha Franco deed is one of the boundary lines; that the Tesorera creek is not mentioned, but the lands of Lucha Franco are mentioned as bounding with Mata Redonda; that the road is more or less straight; that his deeds call for a straight line; for the Tesorera going upstream; that the Penon hill is where the Cardenas River starts; that from the Tesorera creek northeast of the Algorrobo Hill in a straight line to the Penon; that the Cerro Vidrio hill was there; that Cerro Vidrio is stated in the deeds as a boundary; that

it did not state whether the hills are to be included or not; that he compared the deeds of Lucha Franco from which it was clearly seen that these hills were included in the lands of Mata Redonda; that the callings of his title deeds are clear; that there was no harm in explaining them; that the Quebrada Larga is one of the headwaters of the Cardenas River; that his title deeds have the same reading as that because it takes away and adds; that the Tesorera does not run on top of the hill; that it skirts the Lucha Franco side; that nevertheless they went to that creek because Lucha Franco calls for that creek; that that had nothing to do with Lo de Caceres, as Lucha Franco was in another place; that it was not true that Tesorera was about a mile
471 away from the top of the Algarrobo Hill, because the road turns around the hill, and the Tesorera is on the outskirts of the Algarrobo Hill; that one could not walk from the top of the Algarrobo Hill to the Tesorera Creek because there was a deep cut and you could not walk in a straight line but if one could, it would not take more than ten minutes; that going around the road it would take about ten or fifteen minutes; that the Porto Bello road which turns in and goes along monument 87 and continues down, goes in and then goes out again, and then goes in again and turns around a certain hill; that he could not tell which of the 3 Algarrobo hills was the highest; that he had been there with the Judge of Panama; that Algarrobo had three peaks something like Ancon hill which has two; that they have the same base, but three peaks and quite a depression between them; that the peaks are perhaps 100 meters apart; that he included the hill in his boundary as they understood that it was included entirely in the Mata Redonda, because it was bounded by Lucha Franco; that the village was called Algarrobo

and is right near the Algarrobo No. 3, which gave the name to the hill; that in 1886 when he was 6 years old he saw that fence and followed it; that at least he remembered going along the road several times to Lucha Franco and seeing that fence, with the fence of Maria Mendez on the other side; that he saw the fence of Felix Gomez who had his place at the point marked "Potrero 1.8" on defendant's map marked exhibit "X" between "Z" and "T"; that Felix Gomez was not there in 1888; that he remembered that Gomez first came to the place; that that was in 1897 and he took a little place in the Algarrobo and from there he moved down to this place called "Potrero"; that Gomez paid rent to his father and himself; that when he ceased to do so they put him off the lands; that the possessory suits filed by his father was for another place, and that the papers had been stolen from the archives of the Court in Panama; that they have a certificate to prove that; that they asked Mr. Aleman to sign a contract but he
472 never did; that after trying to evade them for a while he went away and said that he would leave the fence and plantation as payment for the rent; that afterwards he had heard that he sold to Mr. Diaz; that he might have sold the lands so far as he knows; that there was no Penca Hueca close to the chapel, the only Pena Hueca being the one marked "Y" on defendant's exhibit "X", but that there was a stone at the place claimed by the plaintiff to be the Pena Hueca but that it was not hollow; there was a rock there with holes in it, cracks, due to erosion, with small holes in it; that the rock at the point "A" is a hollow rock which apparently by seismographic movements had been broken and fallen one on top of the other and left a hollow right under it; that there was an opening there, but very small; that at present it is full of rotten leaves and

dirt; that he had never seen the monuments standing on the headwaters of the Platanar creek marked San Jose; that he had often been there and heard people say that there was a monument there; that he did not know whether it had been removed or not as he had never seen it; that the headwaters are full of bush and it is very far around there.

Re-Direct Examination.

That there had been a suit filed by himself and his father against Mr. Diaz for two actions which were carried to the Supreme Court, one with reference to the fence marked "Y—Z" which continue to the Algarrobo Hill; that the document handed to him was the decision of the Supreme Court in that case; which was introduced in evidence as defendant's exhibit "Z", the same reading as follows:

473 DEFENDANT'S EXHIPIT "Z."

Domingo Diaz, A.,

vs.

Guillermo Patterson, Jr.

Suit for Possession.

To the Honorable Judges of the Supreme Court:

I hereby respectfully beg that you order at my expense the following copies in the law-suit for possession filed by Mr. Diaz against me which has been decided in my favor in your Honorable Court.

(a) A copy of the petition and the answer.

(b) A copy of the three provisos given by the First Circuit Court Judge in which he intimates the destruction of a fence, confirms the preceding proviso to which I have referred and concedes the appeal of the two previous provisos, and

(c) Final judgment of the Honorable Court of Justice in which the first two provivos are reversed in my favor.

The copies I ask for are, therefore, in proceedings which are already concluded.

Panama, May 29, 1918.

(Sgd.) G. PATTERSON, JR.

Received today, May 29, 1918, and I place it at the office of the Honorable Judge.—Casis, Clerk.

Copy of Petition.

To the Honorable Judge of the First Circuit Court:

I, Domingo Diaz A., a resident of this city, domiciled in house number 28 "I" Street of this city, in my own name, and as attorney-in-fact for Mrs. Elisia Arosemena de Diaz and Mrs. Isabel Diaz de Jiminez, come
474 now respectfully before you and file law-suit for possession against Mr. Guillermo Patterson, of age, a resident of this city and domiciled in house numbered 51 West 14th Street, in order that your Honorable Court shall compel him to abstain from disturbing us in our possession of the estate of "Lo de Caceres" which belong to myself and those represented

by me; that he be compelled to indemnify us for damages caused by him; that he be compelled to give us assurance that he will abstain in the future from committing acts that might disturb us and that he be ordered to destroy the fences which constitute the disturbance referred to and that he be compelled to pay us any expense which we might incur in the prosecution of this suit. I base this petition on the following facts:

1. Those represented by me and myself are owners of the estate known as "Lo de Caceres" part of which is in this district of Panama, and the rest in the Canal Zone; the boundaries of the said estate are as follows: A straight line from Mocambo to the spot called "Mata Redonda," thence to the headwaters of the Platanar Creek and along the latter downstream to its confluence with the Palangana Creek and following the natural course until reaching a point parallel with the royal pass or crossing of Rio Hondo, at the place used for crossing in order to go from this city to the estate of "Mata Redonda", and following in a straight line to the said pass it continues along the royal road of "Mata Redonda" aforementioned up to the stream or ditch in the meadows and which runs from south to north; the said stream comprises a series of hills with the hill of "Pan de Azucar" on the one and the other bank thereof until flowing out into the Sabanas, continuing up this stream to some "chumicos" where there are some wells, the source thereof, and from which point the source of a muddy ditch which empties itself into the "Matasnillo" is sought, continuing therefrom and uniting its waters in the "Matasnillo" with those of another stream flowing a little further down the meadows of the "Gallinero" and which lay between these streams, of these streams the one that is on the

north side is the boundary of the lands of "Lo de Caceres" up to its juncture with the river "Matasnillo" and then along the "Matasnillo" upstream until striking an imaginary line running to the summit of the "Gallinero". This straight visual line is drawn from the summit or highest part of the "Barro Colorado" hill, which hill is in view from the house of the estate of "Lo de Caceres", to the summit of the highest part of the "Gallinero" hill in the lands of "Lo de Caceres" which hill can be located by drawing the said visual line to the slopes or lowest part of the hill "La Pava," and from this hill to the slopes of "Ancon" hill. From the summit of the hill of "Barro Colorado" another straight visual line is drawn to the highest part of the hill "Bruno Zerda" which is near the headwaters of a stream serving as a bathing place for the estate of "La Carrasquilla", and which empties itself near the slaughter house of Old Panama, from the headwaters of this stream to the summit of the "Sonsonate" hill, then towards the Tesorera Creek, and along this stream to Mocambo, the starting point.

2. The said lands are registered in our favor at the registry office Panama Section, Volume 150, page 11, under the number 471.

3. Mr. Guillermo Patterson is disturbing us in the possession we have of the lands described above.

4. The disturbance committed by Mr Patterson is the construction of wire fences without my consent or the consent of any of the owners of the land.

I base the right of this petition on title XII, book II, of the Civil Code, and the first section of chapter V, book II, of the Code of Civil Procedure.

I value the amount of this action in a sum over five hundred balboas. I attach herewith deed num-
476 bered 814, dated September 5, 1913, which constitutes our title of domain; the proof that we have been disturbed in our rights, and the power of attorney which enables me to file this petition. Therefore, I hereby beg the Court that this petition be given its natural course.

Panama, December 29, 1917.

(Sgd.) DOMINGO DIAZ A.

First Circuit Court, Panama, February 4, 1918.

Know all men by these presents: Domingo Diaz Arosemena in his own name and representing Mrs. Elisia Arosemena de Diaz, and Isabel Diaz de Jimenez, has filed a possessory action asking that Mr. Patterson be ordered to cease from disturbing their possession of "Lo de Caceres" which belongs to them. As proof in this action the following have been filed: copies of the probate proceedings of General Domingo Diaz; oral testimony of Messrs. Ramon Garcia de Paredes, Adolfo Aleman, Eduardo Icaza, Joaquin Ponton, Manuel Maria Mendez, from which the Court finds, first, that in the probate proceedings of General Domingo Diaz, his legal heirs, Elisia Arosemena de Diaz, Isabel Diaz de Jimenez and Domingo Diaz Arosemena were given the lands of "Lo de Caceres" in this district of Panama with the following boundaries: A straight line from Mocambo to the spot called "Mata Redonda", thence to the headwaters of the Platanar Creek and along the latter downstream to its confluence with the Palangana Creek and following the natural course until reaching a point parallel with the royal pass or crossing of Rio Hondo, at the place used for crossing in order to go from this

city to the estate of "Mata Redonda," and following in a straight line to the said pass it continues along the royal road of "Mata Redonda" aforementioned up to the stream or ditch in the meadows and which runs from south to north; the said stream comprises a series of hills with the hill of "Pan de Azucar" on the
477 one and the other bank thereof until flowing out into Las Sabanas, continuing up this stream to some "Chumicos" where there are some wells, the source thereof, and from which point the source of a muddy ditch which empties itself into the "Matasnillo" is sought, continuing therefrom and uniting its waters in the "Matasnillo" with those of another stream flowing a little further down the meadows of the Gallinero" and which lay between these streams, of these streams the one that is on the north side is the boundary of the lands of "Lo de Caceres" up to its juncture with the river "Matasnillo" and then along the "Matasnillo" upstream until striking an imaginary line running to the summit of the "Gallinero." This straight visual line is drawn from the summit or highest part of the "Barro Colorado" hill, which hill is in view from the house of the estate of "Lo de Caceres," to the summit of the highest part of the "Gallinero" hill in the lands of "Lo de Caceres," which hill can be located by drawing the said visual line to the slopes or lowest part of the hill "La Pava" and from this hill to the slopes of "Ancon" hill. From the summit of the hill of "Barro Colorado" another straight visual line is drawn to the highest part of the hill "Bruno Zerda" which is near the headwaters of the stream serving as a bathing place for the estate of "'La Carrasquilla", and which empties itself near the slaughter house of Old Panama, from the headwaters of this stream to the summit of the "Sonsonate" hill, then towards the "Tesorera" creek, and along this

stream to Mocambo, the starting point. Part of this estate is within the Canal Zone. Second: that Mr. Guillermo Patterson is now disturbing Mrs. Arosemena de Diaz, Diaz de Jiminez and Mr. Diaz Arosemena in their possession of the said lands with the construction of wire fences within the above-mentioned lands. Third: that Mrs. Arosemena de Diaz, Diaz de Jiminez and Mr. Diaz de Arosemena are in possession of the said lands since they inherited them from their husband and father, respectively. According to Article 1489 the petitioner should attach to his petition sufficient proof to show that he possesses the realty, or that he has some real rights which entitles him to bring this possessory action according to the substantive law; and that he is disturbed or embarrassed in the use of that right; the real rights which entitle one to bring possessory action, are: Domain, possession, lease, usufruct, use, etc. Domain is the faculty to dispose of a thing at will; the registered domain of registered possession, and, therefore, the right to exercise possessory actions. Art. 337, 597, et seq. of the Code of Civil Procedure). The right of the plaintiffs to exercise possessory action being proved, and Mr. Patterson's disturbance being also proved, it is necessary to comply with article 1490 of the Code of Civil Procedure. Therefore, this Court administering justice in the name of the Republic and by authority of law, resolves: To intimate to Mr. Guillermo Patterson that he must abstain from disturbing the plaintiffs as complained of, under penalty of paying a fine of from five to one hundred and fifty Balboas, should he persist; to intimate also to Mr. Patterson that he must destroy the fences that he has constructed within the estate of "Lo de Caceres," belonging to the plaintiffs, within thirty days from date.

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Be it copied and notified.
(Sgd.) E. FERNANDEZ JAEN, Judge.
(Sgd.) F. GUARDIA H., Clerk.

To the First Circuit Court Judge:

I, Guillermo Patterson, of age, resident at number 51 West 14th Street of this city, come now before you and plead that you overrule your proviso in the possessory action filed against me by Mrs Diaz de Jiminez, Arosemena de Diaz, and Mr. Domingo Diaz A. I base my petition on the following facts: First, I have not committed acts of disturbance of any kind. 479 The fence referred to by plaintiffs is the same one seen by the Honorable Judge from the spot called "Mata Redonda" to the "Algarrobo" hill, which is within my estate and everybody knows that it has been there for years. This fence was constructed before I bought the estate; it was fixed or rebuilt by me a few months later; about twenty years ago I repaired it again; over ten years ago it was reconstructed one [once] more and it has been kept in constant repair in order that it might not disappear. It is over a year now, however, since it was last repaired, and this explains the fact that some of the wires and posts are missing today. Second, my predecessors in domain and I have fenced only what is registered in my favor and it was in theirs at the registry office as per deed attached. I have, therefore, regular and material possession and my fence is in accordance with the boundaries given in the just title which I possess. Against this possession no proof can be admitted. Moreover, my tenants occupy and I possess and control since 27 years ago in my own name all these lands; and the possessor is considered as the rightful owner until the contrary is proven. (Articles 762, 764, 765, and 980 of the

Colombian Civil Code). Third: The plaintiffs have not proven their material possession. This is the kind of possession which they should have proven that they have for a whole year, before the "act of disturbance," by means of constructions, clearings, plantations or farms. (Articles 974, and 981 of the Colombian Civil Code). And such a thing is simply impossible for them even to pretend, because, as the Honorable Judge conscientiously knows, as he has seen it with his own eyes, I am the one who has the material possession of these lands, under wire fences, whose appearance alone is enough to prove that they are over a year old; this fact is proven also by attached oral testimony. Fourth: The right of action of the plaintiff, supposing for argument sake that he ever had, has prescribed. Those actions prescribe at the end of a complete year
480 and the fences referred to have been there long enough for all actions to prescribe. (Articles 976, 780, and 2529 Colombian Civil Code). Fifth: The plaintiff has filed a delimitation suit between "Lo de Caceres" and "Mata Redonda," which is enough to prove that he does not consider that the boundaries of his estate are fixed and determined and, therefore, it cannot be said that on account of my having a fence along my boundary lines, according to my titles, since a long time before he bought his estate, I am disturbing him. This is perfectly absurd. The provisos attached to my titles when separated from the delimitation suit prove this: Sixth: I specially request the overruling of the proviso referred to above, because it was set forth under the impression that the said fences had been constructed after the new Civil Code became effective; and I prove here that these fences were constructd many years before there was even a thought of writing any code, and therefore, everything regarding them must

be provided for in accordance with the Colombian Civil Code. For this very reason I have based all my arguments on the said Code. (Arts. 32 and 33 of the Constitution; Arts. 3 and 21 of the Civil Code now in effect). As far as right is concerned, I base my petition in Arts. 1491 of the Code of Civil Procedure, those of Book II, Titles VII and XIII of the Colombian Civil Code, and all other articles mentioned above. I beg to call your attention to the fact that the petitioner filed by the plaintiff is incorrect and should not be given cognizance for the following reasons: First, The plaintiff has not attached proofs of the fact that he has been in peaceful and quiet material possession of the lands for a whole year. Second: when there is registered title on both sides a question of property is involved, and domain for over three hundred years on my side cannot be destroyed by a simple possessory action filed by the other side. Third: the petition is not in correct form and it is not in accordance with Article 304 of the Code of Civil Procedure, because it does not fix any given quantity, since "over five hundred balboas" may
481 well be B/500.01, or B/500,000,000.00 or more.

In accordance with all the above reasons, with the right I have and with the complete proofs that I have presented, I beg of the Honorable Judge that the overrule his proviso referred to, because it is just to do so. I have attached also oral proofs rendered by Mr. Diaz' witnesses in this suit, and several copies.

Panama, February 18, 1918.

(Sgd.) G. PATTERSON.

First Circuit Court, Panama, March 26, 1918.

Know all men by these presents: that Guillermo Patterson in his writ of February 18, 1918, asks for the

overruling of the proviso dated February 4, 1918, in which he was notified of the fact that he should cease to commit acts of disturbance which he has been practising in the lands of "Lo de Caceres" belonging to the Diaz-Arosemena family. To uphold his petition he has brought into the proceedings the oral testimony of Manuel Maria Mendez, Eduardo Icaza, Adolfo Aleman, Juan Navarro Diaz, Joaquin Ponton, Jose Concepcion Diaz, Martin Almanza Cabellero, Andres Mojico, Camillo de la Guardia, Pablo Castro, Blas Garibaldo, Santiago Ariza, Francisco Jaen y Felipe Hernandez, as well as public deeds number 26 dated February 3, 1891, and number 52, dated March 2, 1891; a copy of his petition filed in a law-suit for slander of title against the Diaz-Arosemena family and a copy of the judgment rendered in the Lower Court in this suit. In studying the oral proof it is observed that it refers to fences which now exist in the lands of "Mata Redonda"; but the statements in this proof say nothing in regard to the disturbance imputed to Mr. Patterson in the lands of "Lo de Caceres"; and although it is true that some of the witnesses state that there is a difference regarding the boundary line between "Mata Redonda" and "Lo de Caceres", by studying the descriptions in the titles of "Mata Redonda" and comparing them with those mentioned in the petition for slander of title and those given in the Diaz family's titles for "Lo de Caceres" there is a great difference, thus, the disturbance imputed to Mr. Patterson still remains and has not been destroyed by the proof presented on his behalf. The lands of " Mata Redonda" according to the titles attached are: From the "Pena Hueca" of this name "Mata Redonda" a straight line to the hill of "Algarrobo" and thence continuing over to the hill of "Vidrio" and thence to the hill "Gordo",

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circling around to the headwaters of the Cardenas river, downstream, to the junction (or where it empties) of the stream Palangana, and from this stream, upstream to the stream "Platanar", thence this stream, upstream, to its headwaters or source, and thence a straight line to the "Pena Hueca" or "Mata Redonda." As it is well seen, the limits starting from the "Pena Hueca" go only as far as the "Algarrobo" Hill, so they cannot follow the line given in the petition for slander of title, as the titles do not mention a more or less straight line to the "Tesorera" creek, which is above the "Algarrobo" hill. As far as the claim that the plaintiff's petition should not proceed, the Court thinks it is not well founded, since it can be inferred from the oral proof already mentioned that the Diaz-Arosemena family is in material possession of "Lo de Caceres" in that portion where it is claimed that Mr. Patterson is exercising acts of disturbance; and besides that material possession there is also the registered possession, which gives also a right to file such a petition. And as far as prescription is concerned, it is observed that the new Code of Civil Procedure has preference over the Colombian Code of Civil Procedure, since Art. 32 of the Civil Code states that laws of procedure may be applied from the very moment that they are in force. Therefore, the Acting First Circuit Court Judge, administering justice in the name of the Republic and by authority of law denies the overruling asked for and maintains the proviso against which petition for overruling has been filed. Be it copied and notified.

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(Sgd.) F. GUARDIA H.,
Acting Judge.

(Sgd.) A. E. NICOLAU,
Acting Clerk.

The Supreme Court of Panama.

Panama, May 27, 1918. Whereas, it has come up to the Supreme Court from below, a certain action interposed by Mr. Guillermo Patterson, on appeal interposed by Guillermo Patterson on certain orders entered into against him in a suit for damages in the possession of a piece of land, interposed by Domingo Diaz A., in his own name, and in the name of Elisa Arosemena, widow of Diaz, and Isabel Diaz de Jiminez, and says: First:

To order Mr. Guillermo Patterson, Sr., to abstain from the damages of which he has been accused, under penalty of paying from $5 to $150; and he is also ordained to carry out within thirty days the demolition of the fences which he has constructed on the lands of Lo de Caceres, belonging to the damaged parties.

Second: Dated March 26, decrees the denial of the revocation of the first. By the testimony of witnesses which is of record and presented as proofs regarding the damages, it appears on its face that the fence and other constructions about which the complainants complain, have been made many years ago, which goes to establish the incompetency of the proposed action.

This being so, it is clear that the action for damages in itself cannot be maintained, according to the Colombian Code of Civil Procedure, Article 976, of which reads as follows:

484 "'Deeds which have as an object the preservation or conservation of possession prescribe at the end of one year, counted from the date of the damage or encumbrance. Those which have as an object

the recuperation of same, expire at the end of one year, starting from the time the previous possessor has lost it. If the new possession has been violent or clandestine in its nature, then this year will be reckoned from the time of the last damage or act of violence, or since the clandestinesness has ceased.'

'The rules which treat of the continuation of the possession are to be found in Articles 778, 779, and 780 which also apply to possessory action.'

By the above, the Supreme Court, administering justice in the name of the Republic and by authority of the law, revokes the decree that have been appealed.

Let it be copied and notified and returned."

E. URRUTIA.
M. A. GRIMALDO B.
MANUEL A. HERRERA.
JUAN LOMBARDI.
SAMUEL QUINTERO C.
HERMOGENES CASIS,
Acting Clerk.

(True Copy). Panama, May 29th, 1918.
HERMOGENES CASIS,
Acting Clerk of the Supreme Court.
(There is a seal).

Juan Lombardi, President of the Supreme Court, certifies:

That the above signature which says "Hermogenes Casis" is written by the said person and it is the same that he uses in all official business and as Acting Clerk

of the Supreme Court of Justice. Given in Pan-
485 ama on the twenty-ninth day of the month of May, 1918.

(Sgd.) JUAN LOMBARDI.

(There is a seal).

The undersigned Secretary of State in the Department of Government and Justice, certifies:

That the above signature which says "Juan Lombardi" is written by the said person and it is the same that he uses in all official business and as President of the Supreme Court of Justice. Given in Panama the twenty-ninth day of the month of May, 1918.

(Sgd.) EUSEBIO A. MORALES.

(There is a seal).

Evenor Hazera, Assistant Secretary of Foreign Relations, certifies:

That the above signature which says "Eusebio A. Morales" is written by the said person and it is the same that he uses in all official business and as Secretary of State in the Department of Government and Justice. Given in Panama the thirteenth day of the month of May, 1918.

(Sgd.) EVENOR HAZERA.

(There is a seal).

(Witness continuing): That the suit was between Mr. Diaz and himself (the witness) in regard to the fence; that it continued along the road to Algarrobo Hill, and turned on the skirts of the hill along the road; that the Supreme Court of Panama maintained the existence of that fence as the boundary line of the properties.

486 Re-Cross Examination.

That the case filed was a possessory action with reference to the possession of the lands; that the other action was the contradiction of the first auto; that the records speak for themselves.

Re-Re-Direct Examination.

That the case to which Dr. Arias referred to, filed by him and his father was still pending and would be open for proof again for thirty days and then after that there would be a decision of the lower Court, and from that decision, the injured party can appeal to the Supreme Court.

Re-re-Cross Examination.

That there was no final decision in the case as to the boundary line in the Courts of Panama, that it was not a sentence; that a preliminary decree merely had been given, which was a decree ex parte ordering him (the witness) to destroy the fence; that he had a right to contradict that order and had won out in the case; that he had a right to ask the Court to reverse that judgment and that then proofs was to be taken and from the final decision of the lower Court appeal can be taken; that he appealed from that decision because it was against him and the Supreme Court would finally settle it; that with delimitation suits a preliminary line is given and the one who is not satisfied filed a suit asking the Court to change that line to where they want it; that if the lower Court gives a decision against one of the parties that party can appeal to the Supreme

Court; that that was not even a decision of the lower Court that could be called final in that case; that there was only a provisional order; that he had introduced no evidence in that case yet but he had thirty days in which to do so, and with his Answer he would in-
487 troduce all the deeds; that no decision could be rendered until thirty days shall have terminated; that he had not been served with notice with reference to the place where the stone monuments were to be placed; that according to the Judicial Code in Panama which had been changed from the Colombian Code, in possessory suits there was a preliminary auto which was only to start the real suit; that after that comes a real judgment from the lower Court that can be appealed to the Supreme Court and that it could not be settled until the Supreme Court had passed upon it; that he had with him all the papers that they filed in the suit; that an ocular inspection had been made; that later a suit is filed and he is supposed to set a line, no matter where, and the parties are to discuss that line, which they were doing now, that he had his answer in which he stated his reasons for not conforming to the provisional line for 30 days; that that was the real suit which had commenced now; that the delimitation suit was pending in the lower Court; that only in a possessory action in the lower they had decided against him; that he had appealed to the Supreme Court where the judgment was reversed and given in my favor; that that was the only decision that was final; but the delimitation suit was not settled; that the secretary of the Court who was brought as a witness for the plaintiff stated that it was not settled and could not be; that he had his answer which was introduced as defendant's exhibit "A-1", which reads as follows:

DEFENDANT'S EXHIBIT "A-1."

To the Judge of the First Circuit Court:

On December 28, 1917, Mr. Domingo Diaz filed a suit in his own name and in that of Mrs. Elisia Arosemena de Diaz, and Mrs. Isabel Diaz de Jiminez against Mr. Guillermo Patterson, in order that the boundary lines of the lands of Lo de Caceres which belongs to them undividedly be fixed on the side where they touch the lands of Mata Redonda belonging to Mr.
488 Patterson. In their petition Mr. Diaz gave the said boundary line on the side of Mata Redonda as follows: "A straight line from Mocambo to the spot called Mata Redonda, thence to the headwaters of the Platanar Creek and along the latter downstream to its confluence with the Palangana Creek and following the natural course until reaching a point parallel with the Royal Pass or crossing of Rio Hondo at the place used for crossing in order to go from this city to the estate of Mata Redonda,"..... "From here, (the summit of the hill Sonsonate) towards the Tesorera Creek, and along this stream to Mocambo, the starting point." To uphold their claim they attached deed No. 1814 which gives the said portion of lands to the heirs of General Diaz and deeds by which he bought the several portions in which the estate was divided. When Mr. Patterson was notified of the order to perform the delimitation he stated that Mr. Diaz had given the wrong boundary lines because if the said boundary lines were correct the estate of Mata Redonda would be reduced to one-tenth or less of its actual size; that Mata Redonda is bounded by Lo de Caceres on the east only and that on the north it is bounded by Lucha Franco; that the boundary line between the two properties is a line from the spot called Mata Redonda to the Algarrobo Hill; he denied the

necessity of delimitating the two estates which was claimed by Mr. Diaz because the estate of Mata Redonda has been fenced around since over 27 years and therefore its boundary lines are clear and definite, and finally, he stated that the suit filed made it clear that what they intended to dispute was his ownership of the piece of land which he has possessed for over 27 years and over which he holds a registered title, and, therefore, the delimitation suit should be overruled because it is not the proper suit that should be brought according to the doctrine laid down by the Supreme Court of Panama and Colombia.

To uphold his statements he attached deeds Nos. 26 and 58 of February, 1891, duly registered in
489 the Registry office of Public and Private Instruments of the Province of Panama, from page 18 to page 20 of Book No. 1, Volume 1 of the Registry, under the number 15, and re-inscribed in the new Registry Office when it was established 23 years later, registered within legal time in the Panama Section, Volume 9, page 130, under the number 241. Those deeds are those that Mr. Patterson received when he bought the estate of Mata Redonda.

When the lawsuit was thus planned, you made three ocular inspections on January 28, on February 8, and on March 19, of 1918, with the assistance of experts, Abel Bravo, and F. H. Arosemena, for the plaintiffs, and Jose P. Medrano on behalf of Mr. Patterson. But these proceedings were not completed and, therefore, the conclusion that you have reached much perforce be wrong and absurd. The proceeding was incomplete because the true statement given by Mr. Patterson's expert was not included in it; because important portions of the statements given by the witnesses Ramon Garcia Paredes, C. W. Johnston, E. Quijada, E. Arosemena and

Adolfo Aleman V., who confessed that they did not know that portion of the land and that it was Mr. Aleman, deceased, the only person who ever told them that the quarry where we were at that moment was called a "bush"; because important details were omitted in almost every statement of the other witnesses; because according to the proceedings Mr. Patterson's witnesses, Mr. Pablo Ariza appears as one of Mr. Diaz' witnesses, and is made to say just the opposite of what he really said; because it is not said that Mr. Patterson's witnesses said that the spot called Mata Redonda is a bush, which lies at the entrance of the estate; because it is omitted that the Judge said that he had heard enough statements and did not receive, therefore, the statements of Messrs. Isidor Labarza, Encarnacion Fuentes, Patricio Fuentes, Felipe Aias, Adolfo Puello, riguez, Lucio Canate, Dionisio Ortega and Julian Puello, introduced by Mr. Patterson as witnesses, who were right there waiting for their statements to be
490 taken; but on the other hand you heard at your office the statements given the next day by several individuals brought in by Mr. Diaz, who were not present at the ocular inspection the day before, without Mr. Patterson's knowledge; because there is no reference to the age shown by the fence from the spot called Mata Redonda to the Algarrobo Hill, although it was asked expressly by Mr. Patterson that it be noted, for the reason that the wire in this fence is embedded in some of the posts several inches, and some of these same posts are now big trees, although it may be clearly seen that they were posts placed there for the purpose of making a fence; because there is no statement as to the real or material possession of the land; because nothing is said to the fact that the judge did not want to stop at the Algarrobo Hill and on Mr. Diaz'

instructions continued to a hill without a name which lies opposite the "Ventana" hill.

The Honorable Judge on account of the fact that he does not know the land falls in some errors which he states in such a way that they are detrimental to Mr. Patterson's interests; thus he says that Mr. Patterson's witnesses stated that they did not know the name of the hill marked as "Algarrobo No. 1" on the map, and the hill whose name is not known because it has never had it is a hill which lies between the said hill marked Algarrobo No. 1 and the Vidrio hill. He says also that the witnesses mixed up the names of Vidri Hill and Ventana Hill, when what really happens is that there are two hills instead of one, as the Judge thought there was the one with a pasture on it is called Ventana Hill and the other covered with bush whose top seems as if it were adjacent to the former from Valerie Ortega's house where the judge was, is called Vidrio Hill.

Basing your conclusions on these proceedings, you and Mr. Diaz' experts who, by the way, had confessed that they had never been on the lands, although they were there now as experts, fixed the westernu boundary of Lo de Caceres as a straight line from the top of
491 Mocambo Hill to the quarry near the stone ruins of the old site of Mata Redonda. This was exactly what Mr. Diaz wanted, although the boundary given is incomplete as it does not state how Lo de Caceres is bounded by the portion of Mr. Patterson's estate which thus remains to the north, since a wedge is introduced all the way to Mocambo and divides the lands in two portions, although Mr. Patterson has had possession and registered title for a long time over this very piece of land which is now snatched away from him. On account of this absurd ruling based on a proceeding full of errors, according to which the lands of Mata Re-

donda are divided and separated by a portion of land of Lo de Caceres and are reduced to less than one-tenth of their real size, on account of this absurd ruling where more value is given to deeds made to order through a voluntary judicial sale in which the one who sold the land is the same person who buys it, than to a perfect title accompanied by over thirty years of pacific, hostile, adverse and uninterrupted possession of same, on account of such results, I say, Mr. Guillermo Patterson in defence of his own interests and truth above all, has given me instructions to object and oppose the said delimitation and to obtain the true boundary line between the estates of Mata Redonda and Lo de Caceres, without injury to the truth or to anybody's legal rights. Therefore, I, Guillermo Patterson, Jr., of age, residing at No. 21 B. Street of this city, according to power-of-attorney attached and in my own name object to the delimitation of the lands of Lo de Caceres and Mata Redonda as performed by you on January 28, February 8, and March 19, 1918, and, therefore, hereby I file formal petition to the effect that through definite decree after hearing Mr. Domingo Diaz legal representative of the owners of Lo de Caceres, and fulfilling all legal requirements, that you declare the following:

1. That the line set in the proceedings from the summit of the Mocambo Hill to the Canal Zone limit following the direction of the quarry near the 492 ruins cannot be considered as the boundary line between Mata Redonda and Lo de Caceres.

2. That the line which should be fixed as a boundary line between the two estates cannot divide the lands of Mata Redonda into two separate and independent portions.

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3. That Mata Redonda is bounded by Lo de Caceres on the east side only, and is bounded by Lucha Franco on the north.

4. That the true line between the estates is a line from the spot called Mata Redonda to the Algarrobo Hill, where it meets the lands of Lucha Franco.

5. That the spot called Mata Redonda is a bush and not a quarry, and that it is near the entrance of the estate of Mata Redonda near the spot where Mr. Patterson's house was, and that the Algarrobo Hill is next to the Lucha Franco road on the left hand side, and that the village of Algarrobo is on its skirts.

6. That the estates of Mata Redonda and Lo de Caceres are not even adjacent to each other because the Porto Bello road from this city separates them.

7. That Mr. Diaz pretends to dispute my ownership over a piece of land over which I have a registered title and more than thirty years' possession, for which reason the delimitation suit is not the proper suit to file.

8. That Mr. Diaz must pay the expenses he has forced upon me in the preliminary proceedings, and in this suit which I now file.

I beg you also that you notify this petition to Mr. Manuel Espinosa Batista, of age, residing at No. 31 Central Avenue, and to the heirs of Mr. J. Gabriel Duque, represented by Mr. Thomas Gabriel Duque, as Manager of the Compania Unida de Duque, who
493 sold the estate of Mata Redonda to Mr. Patterson.

The full proof that this notification should be made according to articles 1899, 1900, and 1901 of the Colombian Civil Code, which is the law governing the said contract of sale are attached as follows: Deed No. 26 of 1891 in which Mr. Patterson buys the estate, one of whose clauses states that Mr. Espinosa jointly and severally with Mr. Duque is bound to answer for eviction. Deed of October 12, 1832, 59 years before Mr. Patterson bought the lands, which states that the boundary line is from Mocambo to the spot called Mata Redonda.

I base the petition that I now file on the following facts:

1. Mr. Patterson bought the estate of Mata Redonda in February, 1891, over 27 years ago, and ever since he has had legal possession and material control of all the lands with just and legitimate title to ownership duly registered.

2. The Cardenas River has always been the western boundary of the lands of Mata Redonda, since they were granted by the Crown of Spain, from its headwaters to the junction of the Palangana creek.

3. If the boundary line were from Mocambo to the Mata Redonda, there would be a piece of land lying to the north entirely separated from the rest. The said piece of land is not public land and it is a part of the estate of Mata Redonda.

4. When Mr. Caceres, in 1736, obtained from the Crown of Spain the lands that now bear his name he included in the boundaries given from Mocambo to the

headwaters of the Rio Hondo, the lands of Mata Redonda; but the estate of Mata Redonda had belonged at that time to the High Constable of the Court, Domingo Pimentel.

5. The estate of Mata Redonda has always existed as a separate property and it is not included in the lands of Lo de Caceres by which it is bounded on the east.

494 6. In 1883 the estate of Mata Redonda was sold at public auction by the judge for lack of payment on the part of the buyer, Mr. Zayas, and from that time to the present day the owners of the estate whose material possession as well as regular possession I hereby add to Mr. Patterson's, have exercised all kinds of acts of ownership and have had pacific, hostile, adverse and uninterrupted possession over all the land included in the boundary lines given in the judicial sale.

7. Mr. Patterson has been in material and regular possession with just title for over ten years which gives him ordinary prescription over the lands described in his deeds and if there should be any doubt as to the spot called Mata Redonda being where it really is, he has extraordinary prescription over any portion of land east of the line determined by the judge, and west of the road of Lucha Franco or Porto Bello, which road, excepting the curves goes exactly on the boundary line given on the titles of Mata Redonda from the judicial sale of 1883 on.

8. The estate of Mata Redonda is bounded on the north by the estate of Lucha Franco, and if its north-

ern boundary were a line from the Mocambo Hill to the quarry, it would lie very far away from Lucha Franco, and it would be bounded on the north by the estate of Lo de Caceres, which is not true.

9. In order that the estate of Mata Redonda be bounded on the north by the estate of Lucha Franco, and only by the estate of Lucha Franco, as the titles state, the boundary line must be from the true Mata Redonda to the Algarrobo Hill, that is to say, the Porto Bello Road.

10. It is a matter of public knowledge since a long time ago that the lands west of the Porto Bello road belonged to the owners of the estate of Mata Redonda.

As far as law is concerned I base this petition on the civil substantive law on ownership, possession, right of use and prescription of the Colombian Civil
495 Code (Book 2, titles 2, 7 and 11; Book 4, title 41) and on the law of judicial procedure as far as delimitation suits are concerned, as is stated in our Civil Code Procedure (Book 2, Title 8, Chapter 2).

The documents mentioned are partly attached as follows: Power-of-attorney, deed of November, 1883, of November, 1884; of March, 1887; of July, 1888; of July, 1890; Resolution of the Land Administrator deeds of February, 1695 of April, 1841; of July, 1854; of March, 1859; March, 1862; of February, 1871; and August, 1876.

In the proceedings you will find deeds 26 and 58, 1891, and that of October 12, 1832, some sworn statements and a map of the estate of Mata Redonda. I will introduce at the proper time all other deeds which are found at the

Notary Public's office and some sworn statements and copies which are now at that Honorable Court attached to another lawsuit with Mr. Diaz and in some of the other Honorable Courts of this Circuit.

I beg of that Honorable Court that this petition be given its proper course after notifying Messrs. Manuel Espinosa and Thomas Gabriel Duque, the latter as legal representative of the heirs of Jose Gabriel Duque.

Panama, April 30, 1918.

(Signed) G. PATTERSON, JR.

Here the defendant rested, and the plaintiff introduced the following testimony in rebuttal:

MARIA DE LOS SANTOS RUIZ, called on behalf of the plaintiffs, after being first duly sworn, testified as follows:

That her name was Maria de los Santos Ruiz, born November 1, 1864; that she was 54 years of age; that she lived with Felix Gomez in Llano Largo on Lo de Caceres; that she remembered the sale of the place that Felix Gomez had which he sold to Martin Almanza Cabellero; that Feliz Gomez paid rent to Catalina Lewis de Paredes; that Felix Gomez was in charge of
496 collecting rents in behalf of Mrs. Catalina Lewis de Paredes; that he was also a collector; that Felix required the persons to come and pay him and they went and paid Mrs. Catalina; that Felix demanded payment of rent from Pancho Ariza, Felix Ariza, Manuel Ariza, Balerio Ortego, Nicolas Flores, while he was living there; that all those he required to pay rent; that she was living with Felix Gomez at the time he made the fence enclosing his potrero; that she lived on

the farm; that there was no other fence there and that when they arrived there, there were no people living there but after a time people built houses there; that it was sold before the Independence of the Republic of Panama; about two years before; that Felix Gomez was overseer of Lo de. Caceres for Mrs. Catalina Lewis de Paredes for about 15 years.

Cross Examination.

That she only lived on that property two years; that she lived there when it was sold to Caballero; that she cannot remember how long ago it was that Felix Gomez left there; that Felix Gomez is not now living; that he has been dead about ten years; that after he left there he went to Llano east of the place where he had lived at first; on a slope where he had some agriculture; that the place he went to live on was the lands of Catalina; that he came to leave because he died and she had to live there; that he did leave because he failed to pay rent, but that Mr. Patterson demanded rents and that Catalina told him that it was not Mr. Patterson's but it was hers; that Mr. Patterson made a judicial demand on Felix Gomez for the payment of rent but that Catalina did not; that Mr. Patterson filed suit in ejectment against Gomez in the City of Panama becaus he insisted that he pay him rent and that Catalina told him it was not his; that Mr. Patterson did not file a suit against Gomez; that she did not say that he
497 filed suit but merely a demand or a claim on him and that Catalina told him that he was not the man, but that she was; that it was not true that the Court of Panama in the suit against Gomez decided the case against him and ordered him to leave there; that those two years were the only two years

that she had ever been there in her life; that apart from those two years she knows nothing about Lo de Caceres or Mata Redonda; that she never saw Santiago Ariza or any of the Arizas pay rent personally; that she knew that Felix Gomez required them to come up and that they went to Catalina to make payment; that all that she knew was that she heard, but she did not know whether they paid rent or not; that she did not know, whether the Arizas paid rent to Mr. Patterson; that Domingo Diaz asked her to come to testify four days ago; that he said to her as she had been living a long time in Llano Largo he wanted her to testify.

JUAN ANTONIO GUIZADO, the next witness called by the plaintiffs, after being first duly sworn, testified as follows:

That his name was Juan Antonio Guizado; that he lived at No. 11 First Street, Panama City; that an instrument that was handed to him marked plaintiff's exhibit "22" dated September 14, 1917, same being a letter from Jose Gabriel Duque to Mr. Domingo Diaz; that the signature was that of Jose Gabriel Duque; that he was acquainted with Jose Gabriel Duque; that he had known him for a long time and was familiar with his handwriting; that Mr. Duque was the First Chief of the Fire Department and he was the Second, and all the documents of the Fire Department were signed by Mr. Duque at the time that he was First Chief.

Here the document was offered in evidence as plaintiff's exhibit "22," reading as follows:

498 Panama, September 14, 1917.

Mr. Domingo Diaz,
Panama City.

Esteemed Friend:

"In answer to your letter I have to inform you that from the date on which I purchased the property of Mata Redonda up to the day on which I sold it, I did not exercise acts of possession in the said estate; neither did I authorize any person to exercise such acts inasmuch as I have not, or did not own the said property.

Yours faithfully,

JOSE GABRIEL DUQUE."

To the introduction of which said instrument in evidence the defendant, by counsel, objected for the following reasons:

That the statements contained in the letter would constitute the taking of testimony ex parte of the deceased, J. Gabriel Duque, without the defendant having an opportunity to cross examine; that it was tantamount to offering testimony not under oath; that on its face it showed that it was written by the said J. Gabriel Duque, if in fact, it was written by him years after he had parted with the ownership of the property; that the said letter is clearly incompetent, irrelevant and immaterial.

Which said objection being by the Court overruled, the defendant, in open Court, by counsel duly saved his exception.

(Witness continued) That Mr. Duque was dead.

499 JOSE MARIA CALDOS, a witness called in behalf of the plaintiffs, after being first duly sworn, upon oath testified as follows:

That his name was Jose Maria Caldos; 35 years of age; that he knew the estate of Lo de Caceres, and that he knew Mr. Juan Brin; that he worked for Mr. Brin in 1908 with reference to the fence; that he together with others made the fence; that it ended at the enclosure that used to belong to a man named Felix Gomez; that it started from the fence of Mr. Adolfo Aleman; that it was a new fence; that the wire was new and the posts were new; that he did not find any old fence; that the fence they built was new up to reaching the enclosure belonging to the deceased Felix Gomez; that the fence of Felix Gomez was rather old; that he lept build the fence of Felix Gomez as he worked for him as a peon.

Cross Examination.

That he lived at Pueblo Nuevo, Sabanas, on the lands of Domingo Diaz all the time but not at present; that he came here today at the request of Mr. Diaz who told him to come on Thursday, May 30th, and that he would pay his expenses and to come in and make a declaration; that he paid him two pesos or a dollar gold per day; that he was paid in accordance with the time that he might spend; that it was not necessary for Mr. Diaz to instruct him what to say, because all he had to do was to tell the truth; that Jose Pablo Medreno was in charge of the building of the new fence under orders of Mr. Juan Brin, who perhaps represented Mr. Patterson; that after a time he learned that Mr. Patterson was the owner of the estate of Mata Redonda; that he

knew absolutely nothing of his own knowledge; that he did not know whether the fence that he built was the dividing line between Mata Redonda and Lo de Caceres; that he worked on that fence; that he worked nine or ten days and that Mr. Felix Gomez was not living there when he was doing so; that he was working for Mr. Brin in 1908.

500 DOMINGO DIAZ A., called as a witness in his own behalf in rebuttal, being first duly sworn on oath, testified as follows:

That he knew the fence of which Mr. Caldos the witness immediately preceding had testified; that he had seen it when it was being built by Mr. Brin; that it was a new fence at the time; that he saw it in 1907 or 1908; that there were no remains of an old fence unless the line round the old bohio that they had enclosing a cottage; that he was going there to see Mr. Navarro who first sold him the land of Catalina Paredes; the first two-ninths that he bought of Lo de Caceres; that Mr. Navarro had two plantations of sugar cane, and was putting in Para Grass and Guinea Grass in potrero, and that he took him over there to see it; that he told him he could buy the property and that he went there two or three times and saw the fence being built; that he did not do anything as the land was not his at that time; that he bought it in 1909; that he bought the land in the beginning of 1909 from different parties and then he went to Europe to see his father who was Minister of the Republic of Panama in France; that he left here 15 or 20 days after he bought the last of the property and returned in 1910, at the beginning of the year; that as soon as he arrived he saw Mr. Patterson about the delimitation of the estate because Mr. Adolfo Aleman had previously told him that Mr. Pat-

terson had been trying to extend his property; that he commenced to study the different deeds of the properties which he now knew thoroughly; that he then saw Mr. Patterson and tried to settle with him in a friendly manner in order to avoid any lawsuit; that Mr. Patterson told him he would agree to that; that this took place in the beginning of 1910 as soon as he arrived from Europe; that the friendly conference was postponed because Mr. Patterson was sick and could not go to the land; that in 1912 he was going to take Mr. Ramon Jimenez the husband of his sister-in-law to Europe because the young man was very sick; that he did not make the
501 trip because he died; that he then signed a document with Mr. Patterson which is introduced in evidence as plaintiff's exhibit "23," which reads as follows:

"Messrs. Domingo Diaz and William Patterson have agreed to postpone their projected amicable arrangement of delimintation between the plantations of "Lo de Caceres" and "Mata Redonda" until Mr. Diaz A. returns from Europe, or if Mr. Patterson should go away, until such time as he may return. In witness whereof we sign this agreement in duplicate in Panama on this 22nd day of May, 1912.

(Signed) GUILLERMO PAT[illegible]RSON,
(Signed) DOMINGO DIAZ A."

(Witness continuing): That the signature on it was Mr. Patterson's and that he saw him sign it; that it was signed on the 22nd of May 1912; that the arrangement was to delimitate the boundaries in a friendly manner; that he proceed to make his plans of the property and tried to finish it; that Mr. Patterson was delaying the finishing of the friendly agreement but at the end of

1913 or 1914 he went to Mr. Patterson and said "I want to finish it" and that if he did not want to go to the country to finish the agreement on the plan; that Mr. Patterson told him that he did not want to do that, and refused to fulfil his engagement; that he was not going to do anything; that he refused point blank and broke his honor; that he then went to his house and took all the documents to Dr. Arias who commenced to study them; that a few days later Mr. Guillermo Patterson went to his house to excuse himself and to say that he wanted to finish the settlement because his father did not know what it meant; that he discussed the settlement many times having made an arrangement with reference to the line in dispute; that the matter of the arrangement started in 1910 for the possession of the land which was that they would not trouble the people and collect any rent; that no one would exercise any acts of possession until when the matter was decided, then each
502 could take his own land; that no one was to have possession of the disputed land; that things were to be left in statu quo until the friendly delimintation was finished; that when Mr. Patterson went to his house Mr. Diaz's brother-in-law got angry; that Mr. Patterson first refused about 1914 and we later talked the thing over and signed the first written agreement again in 1915 for settling the boundary dispute in a friendly manner which was to be submitted to arbitration; that one was to be appointed by Mr. Patterson and one by them, and if they could not agree, a third man was to be appointed who was the Vice-President of the Republic of Panama, Dr. Ciro L. Uriola; that it was submitted to him for his judgment which was to be final; that this agreement was submitted in evidence as plaintiff's exhibit "24," being the agreement of August 2, 1915, reading as follows:

Panama, August 2, 1915.

Messrs. Domingo Diaz A. and J. A. Jimenez, hereby appoint Mr. A. B. de Obarrio as their arbitrator, Messrs. Guillermo Patterson and his son hereby appoint Mr. Juan Brim as theirs. And they all agree that the umpire will be Dr. Ciro L. Urriola.

What is to be submitted to arbitration is the following:

The appraising of the value of the two parcels of land per hectare as described in the agreement of June 20, 1915. That is to say, the value per hectare of the lands within the Canal Zone and those lying in the Republic of Panama.

The decision of the arbitrators will be final and cannot be appealed.

If Messrs. Obarrio and Brin have not reached an agreement within thirty days from date then it will be time to appoint the umpire.

Panama, August 2, 1915.

(Signed) DOMINGO DIAZ A.,
" G. PATTERSON,
" J. A. JIMENEZ,
" G. PATTERSON, JR.

503 (Witness continuing): That the signatures to another agreement dated June 20, 1915, were those of Mr. Jimenez, Mr. Patterson, Senior, Mr. Patterson, Junior, and his own; that this agreement was introduced in evidence as plaintiffs' exhibit "25," reading as follows:

"The undersigned, Domingo Diaz A., and J. A. Jimenez, as owners of the property known as "Lo de Caceres," and G. Patterson, and G. Patterson, Jr., as owners of the

property of Mata Redonda, for the purpose of settling the difficulties that exist between their boundaries, and for the purpose of fixing permanent boundaries, they have mutually agreed, as follows:

"1. The land in dispute is comprised within the following boundaries: A straight line from the lower Mata Redonda, to the center of the top of the Algarrobo Hill, and therefrom to the center of the top of Vidrio Hill, and therefrom to the center of the top of Cerro Gordo, and therefrom to the center of the top of Mocambo Hill, and from Mocambo a straight line to the Mata Redonda already mentioned, which was the starting point.

"2. That when the difficulty in the partition of the section of the land in question which is discussed, is settled the boundaries between the two properties "Mata Redonda" and "Lo de Caceres" shall be: From Monument No. 87 of the boundary of the Canal Zone, following the road to Lucha Franco, as far as the Royal Pass of the Tesorera Creek. It is understood that the section of land stipulated in article 1, shall be divided from east to west in halves, but it will be necessary to compensate the value by means of exchanges or in any other manner, the values thereof.

"3. The owners of "Lo de Caceres" shall take the portion of the section remaining in the Canal Zone; or, that is, the lower portion, and the owners of "Mata Redonda," shall remain on the upper portion.

504 "4. Any point in discussion which could not be settled between the parties shall be submitted to amicable arbitration.

"5. An ocular inspection of the road shall be made between the boundary of the Canal Zone and the Algarrobo Hill for the purpose of seeing whether the road deviates itself or not from the boundaries; and if there should be at any place where it should deviate itself more than 100 meters, the excess shall be exchanged for other pieces of land within the Canal Zone. The boundary mentioned is the line which goes from Mata Redonda to Algarrobo. The survey we shall continue in the road as far as the Royal Pass of the Tesorera Creek.

"6. If within the term of 20 days from this date, a definite settlement has not been arrived at, the differences between the parties shall be submitted to amicable arbitration; the decision of which shall be final and definite."

DOMINGO DIAZ A.,
J. A. JIMENEZ,
G. PATTERSON,
G. PATTERSON, Junior."

"Date June 20, 1915."

(Witness continuing): That by the "lower Mata Redonda" mentioned in plaintiffs' exhibit "25" and indicated by the letter "Y" on defendant's exhibit "X" he meant that he had been very generous with Mr. Patterson; that he knew that the true Mata Redonda was at the point where the chapel was, indicating the point marked with two circles on defendant's exhibit "X"; that in order to finish this agreement he accepted to commence the boundary line there; that he knew that it was a friendly concession; that he knew perfectly well that the true Mata Redonda was the one close to the old chapel; that there existed the old stone fence, probably made by the Spainards, which is close to the headwaters

of the Platnana creek, with the hollow rock of Mata Redonda; that the reason they called it the "lower
505 Mata Redonda" was because they knew that there was another; that they distinguished between the lower and upper Mata Redonda; that he did not know why he did not demand in the arrangement that the upper Mata Redonda should be the one to start at because they had a long dispute with Mr. Patterson, and in talking the matter over he wanted to prove by himself that he would win in a lawsuit; that he didn't want to have a lawsuit because there was so much trouble and expense to it; that he tried all the time, against the will of his brother-in-law to avoid the dispute; that that was the reason why he yielded the claim that he had from having the land in dispute started from the upper Mata Redonda; that he did so in order to finish the friendly settlement; that he brought the attention of the defendant in the case to the other Mata Redonda and that was the reason why he called it the "lower Mata Redonda" which admitted the existence of an "upper Mata Redonda"; that the agreement signed by both plaintiff and defendant in this case was not carried out; that Mr. Patterson refused to fulfill it saying that the arbitrator had gone beyond his jurisdiction; that he had been very generous with Mr. Patterson; that he never told him that he was a rich man and Mr. Patterson a poor man; that Mr. Patterson has money; that he has three houses; that he has many houses; a large concrete one and large lands.

Cross Examination.

That in the agreement he made with Mr. Patterson he agreed to draw a line from the lower Mata Redonda claimed by Mr. Patterson to the headwaters of the

Cardenas River or Mocambo; that in that agreement he admitted that all lands lying to the southwest of the line from Mr. Patterson's Mata Redonda to the headwaters of the Cardenas River, or Mocambo, belong to the estate of Mata Redonda, provided a friendly settlement were arrived at, and that he made that statement for the sake of arbitration; that in accordance with that
506 agreement the only lands that were in dispute were those lying in the northeast of that line; that it was not exactly true that all the lands lying northeast of the line from the lower Mata Redonda to the headwaters of the Cardenas River or Mocambo within the Canal Zone were to be taken by him and the land out of the Canal Zone by Mr. Patterson; that the tract would be divided exactly in half; that Mr. Patterson would take the upper and he would take the lower half and that they were to measure it and they were to give that to Lo de Caceres in payment for another part; that there was included in that portion that was to be divided a considerable portion of land that the very map showed was now in Lo de Caceres; that he never in his life knew Tesorera Hill but Tesorera Creek; that he did not know where Tesorera Hill was; that it was called by the witnesses of Mr. Patterson Algarrobo No. 1; that the lands to be divided took in a considerable portion of land that Mr. Diaz claimed at present to belong to Lo de Caceres and that even the map showed it was Lo de Caceres; that he expected to measure from the line to the road; that that was the land of Lo de Caceres; that that was out of dispute; where Mr. Patterson and his father had their fence on the land; that that was a proof of his friendly feeling and their willingness to finish the settlement to avoid the lawsuit; that his attitude had been characterized by excessive generosity.

Here the ploaintiffs rested their testimony in rebuttal.

GUILLERMO PATTERSON, JR., being first duly sworn, in rebuttal, testified upon oath as follows:

That Mr. Diaz said that there was a line from the point "Y" on the map to a point in the center of the top of Algarrobo Hill; that these lines were placed both together; that they agreed that whenever the differences in exchanges were to be settled the permanent boundary lines between the Mata Redonda and Lo de Caceres estates would be from Monument 87 along the
507 road to Lucha Franco, up to the Tesorera Creek which meets the road somewhere between Algarrobo No. 1 and No. 2, according to the map; that on the 21st, the next day, they agreed that they would measure 100 meters from this road to the boundaries of Mata Redonda which are the boundaries given on the map, and not to the line in dispute, which was a different thing altogether; that Mr. Diaz had recognized that the land between the line given to the middle of the Algarrobo hill and the line going from the Mata Redonda to the Algarrobo Hill marked "Y" on the map was not in dispute at all and belonged to Mata Redonda the same as this other land did when Mr. Diaz was disputing in this case; that the line mentioned was the line from the Mata Redonda to the Algarrobo and not to the middle of the top of the Algarrobo; that the Tesorera creek has two headwaters, the larger one starting about the skirts of the Cerro Vidrio Hill; that these two hills are large hills which nearly meet, where the Tesorera creek has its rise and runs in an easterly direction; that the road turns around this Algarrobo hill and meets the Tesorera Creek somewhere between Algarrobo No. 1 and No. 2; that there is a hill called "Cerro La Tesorera" which is midway be-

tween Cerro Vidrio and Cerro Algarrobo No. 1; that the Panama Judge and Mr. Diaz, on account of the scanty knowledge of the land could not destinguish between them; that there is another small hill called "Loma Tesoerera" which is outside; that every time that a witness would refer to "Tesorera" Mr. Diaz would claim it was "Cerro Algarrobo No. 1"; that his father had agreed in 1912 to settle the matter in an amicable way; that after that in 1914 Mr. Diaz wanted to break the agreement which he had shown by two letters, one written by Mr. Bruno on behalf of Mr. Diaz and the other written by Mr. Harmodio Arias as their attorney; that Mr. Diaz then wanted the agreement ended and they said they were willing to end it; that in 1915 he went to see Mr. Diaz to see if they could try again to make this arrangement but did not beg Mr. Diaz as he had stated;
508 that he merely stated that if he wanted they were willing; that Mr. Diaz and his father and himself, and Mr. Jimenez met several times at his house to discuss these points and agreed on them in a friendly manner taking as a practical basis that the Mata Redonda be recognized at point "Y" on the map and that the limit of the boundary line was to be the road to Porto Bello; that Mr. Diaz agreed to that very clearly as the basis of their agreement; that line was from Monument 87 up; that it was decided that the lands within the Zone was to be sold to the American Government and there was no use in fixing any more boundaries in the Zone which they would not have after it was paid for and that the discussion then arose as to the value of land in compensation and exchange; that they named appraisers just to settle that one point; that all the rest were accepted as was shown; that the appraisers had to follow the law in such matters; that if a man goes beyond what is given him to decide such de-

cision had no legal force whatsoever; that the arbitrator exceeded his jurisdiction and that he does not believe that they were compelled by abide by it so long as he had gone away from what was submitted to him; that he could have said it was worth fifty times as much and the whole land would not have been sufficient to satisfy the exchange; that they told him that they were willing to give Mr. Diaz a certain amount of money according to the price fixed and they refused that; that they wanted to take it up and submit the whole thing to the Court; that Mr. Diaz wanted them to put up $5,000.00 before they would agree to it; that they did not have the money but said they would try to get it; that before they had occasion to borrow the money the suit was filed; that Mr. Diaz had always tried to press them for money, to make them deposit money which he knew very well they did not have; that it is true that they owned the land and have a few houses; that they are what in the United States would be called "land poor."

509 Cross Examination.

That it was agreed that the land in dispute, by means of the agreement should be those to the south of the line drawn from the point "A—Y" to "F" on defendant's exhibit "X"; that it should be to the west of that line up to the line running from Mata Redonda to Mocambo; that they intended to exchange some land; that he did not concede any land to the east of the line from "A" to the point "T" on the map; that they always maintained their boundaries within that line and more than as it took the road; that they did not concede to the settlement of the land lying to the east of the line drawn from "A—Y" to "T" belonging to Lo de Caceres; but only such lands as might be between the lines from Algarrobo to the Mata

and the road, if there were more than 100 meters; that they agreed that the land in dispute should be between the points "A" to "T" on the map as a starting point, but that did not agree that Lo de Caceres extended to the east of the line drawn from the point "A" to point "T"; that he did not concede the granting to Lo de Caceres of any land to the north of the Panama-Porto Bello road; that they merely said that they would divide this portion of land and make an exchange; but at the same time they fixed their boundary line from Monument 87, along the road up behind the Algarrobo Hill; that they never for a minute considered that this land was in dispute; the land comprised within that triangle; that they were to give them a piece of land within Mata Redonda for a piece outside; that they wanted to give them ten hectares of land out where their house is, but they did not want to give that.

Here was introduced in evidence defendant's exhibit "B-1" being the decision of the First Circuit Court of Panama under date of February 19, 1915, in an action in ejectment filed by Mr. Patterson against Felix Gomez directing his eviction from the lands, which decision reads as follows:

510 "To the first Circuit Judge:

"I, Guillermo Patterson, junior, of age, and a resident of this City, come now before you and most respectfully beg that you certify immediately below to the following: (1) That in package No. 102 under entrance No. 55 in the archives of G. Patterson vs. Felix Gomez in a suit for possession. (2) That there is in the said proceedings, a contract between Felix Gomez and G. Patterson, signed on July Ninth, Eighteen Hundred and Ninety-Seven. (3) That the said contract

refers to a parcel of land which Mr. G. Patterson, owner of the estate Mata Redonda, leased to Mr. Felix Gomez in the place known as "El Algarrobo" according to the power of attorney given by the said Gomez to Dr. Pablo Arosemena. (4) That there is a sentence of the Court given out on the Fourteenth day of October, Eighteen Hundred and Ninety-Nine. And please the Court to give me a copy of said sentence. Panama, February Nineteenth, Nineteen Hundred and Fifteen. G. Patterson, junior. Received today, February Nineteenth, Nineteen Hundred and Fifteen. I take it to the Honorable Judge's Office. Guardia, Acting Clerk.

"I, Esequiel Fernandez Jaen, Judge of the First Circuit Court of Panama in actual performance of such duties hereby certify; that in the archives of this Court in the file corresponding to the year Nineteen Hundred and Four marked with One Hundred and Two, there is a file of proceedings of a possessory suit filed on October Third, Eighteen Hundred and Ninety-Nine by Mr. Guillermo Patterson against Mr. Felix Gomez; (That in said file there is a contract between Mr. Patterson and Mr. Gomez regarding the lease of a parcel of land in the state of Mata Redonda. That there is also in the said file a power of attorney given by Mr. Felix Gomez to Dr. Pablo Arosemena, to represent him in any possessory suits already filed or that might be filed by Mr. Patterson against him for the possession of a parcel of land lying in El Algarrobo. That there is also a decree given out by the Judge of the First Circuit Court of Civil Controversies on the Fourteenth day of October.

511 FIRST CIRCUIT COURT IN CIVIL CASES.

Panama, October Fourteenth, Eighteen Hundred and Ninety-Nine. KNOW ALL MEN BY THESE PRESENTS: Guillermo Patterson rented to Felix Gomez a

parcel of land in his lands of Mata Redonda, which rent term was due on July Ninth, of last year, it is so attested in the contract on page One of this proceeding judicially recognized by the tenant. The titles presented by Patterson clearly show that he is in actual possession of the lands known as Mata Redonda, and the aforesaid contract, shows that Gomez unlawfully retains a parcel of said lands. Therefore the Judge of the First Circuit Court imparting justice in the name of the Republic, and by authority of the law herein orders and commands Felix Gomez to deliver to Guillermo Patterson, within the fixed time of Ten days, the said parcel of land which he unlawfully retains and which form a part of lands of Mata Redonda. Be it copied, and notified—Juan Lombardi Ricardo Borbua—Clerk. In the City of Panama at 9 a. m. of the Eighteenth day of October, Eighteen Hundred and Ninety-Nine, I have notified Mr. G. Patterson of the preceding decree. G. Patterson—Borbua—Clerk. In the City of Panama at 9 a. m. of the Eighteenth day of October, Eighteen Hundred and Ninety-Nine, I have notified Mr. P. Arosemena the preceding decree—Arosemena Borbua, Clerk." In testimony thereof, I hereby extend seal and sign these presents on the Twenty-second day of the month of February of the year Nineteen Hundred and Fifteen, in the City of Panama. The Judge of the First Circuit Court. E. Fernandez Jaen. Guardia—Acting Clerk. (There is a seal of the Court.)"

512 The Court:

Now, you have gotten all the oral testimony in from the other trial. Proceed with the balance of your witnesses.

(Thereupon at this point the plaintiffs continue as follows):

ALFONSO FABREGA is now called by the plaintiffs, and having been duly sworn, testified through the official interpreter in Spanish, as follows:

Direct Examination.

By Judge Fairman:

Q. Please state your name?

A. Alfonso Fabrega.

Q. Where do you reside?

A. Panama.

Q. What position do you hold at the present time?

A. Notary public number One.

Q. How long have you held that position?

513 A. Since the month of May, 1919.

Q. What particular archives are there kept in your office relating to real property?

A. They keep on hand the public deeds relative to the purchase and sale of real estate.

Q. How far back in point of time do the archives of your office extend, if you know?

A. From the year 1825 they are found to be in perfect condition.

Q. In what condition are the records of your office with respect to documents transferring real estate prior to the year 1825?

A. Very bad condition; they cannot be examined easily,—they are all mixed up.

Q. In what state of preservation are these old documents prior to 1825?

A. I have stated in very bad condition.

Q. State whether or not it is possible to make copies of documents prior to the year 1825?

A. Yes, it is possible to make copies.

Q. Complete copies?

A. There are pages on which it is necessary to mark 'this is torn out.'

Q. Have you any indexes in your office indicating the transfer of real property prior to the year 1825?

A. There exists some old indexes, but they are not complete.

Q. State, if you can, the bulk of the old documents in your archives prior to the year 1825?

Mr. MacIntyre:

I do not understand that question. I doubt if the witness does.

Judge Fairman:

How much space do they occupy?

A. (Indicates on table).

Q. What condition are these old documents prior to the year 1825 with respect to finding any particular document in them of any particular year prior to that year?

A. It is very difficult to find anything; sometimes it is necessary to put in a whole week looking for them.

Q. Are they placed in such position that you can find any particular year?

A. No, they are not.

Q. Then in order to find any particular document you might have to go through all of these ancient documents?

A. As far as I remember there are slight indications as to the years in which these documents are placed; there is a little package showing the years.

Q. Are these years also mixed up in the
514 archives, for instance, you might find in the documents of 1806 a document pertaining to the years 1807 or 1809?

A. Yes, I believe so.

Q. About how much space in your archives do these ancient documents occupy, indicating by height, width and breadth?

A. I think it could be put on this table, putting the papers that high. (Indicating table 8 feet by 3½ feet, by forming a pile about 8 inches high.—Counsel).

Q. Mr. Fabrega, prior to the time that you were Notary Public what official position did you occupy in the Republic of Panama?

A. I have been a judge.

Q. How many years were you a judge?

A. For ten years, but I only had jurisdiction over criminal matters, and afterwards as magistrate.

Q. From your knowledge of the law and procedure in Panama, in what respects are notarial documents received by their Courts in evidence?

Mr. MacIntyre:

To which we object.

The Court:

What I want to know is how you are going to receive the laws in Panama at one time, how that will effect us here?

Judge Fairman:

I do not know how it will effect,—that will be for your Honor to determine.

The Court:

I will sustain the objection.

Judge Fairman:

Save an exception; and offer to prove by this witness that notarial documents, properly authenticated, are received in the Courts of Panama in the trial of civil actions as being authentic and proper evidence, until disproved or contradicted.

Q. (Continuing): I exhibit to you a document, Mr. Fabrega, and ask you to state if that is your signature?

A. Yes, sir.

Q. In what capacity did you issue this document?

A. As Notary Public Number One.

Q. That is, then, an official document issued by your office?

A. Yes, sir.

Q. We submit in evidence plaintiffs' Exhibit No. "2."

Mr. MacIntyre:

We object on the grounds that this Exhibit No. 2 is the same exhibit formerly offered by the party as Exhibit "A-1", and is merely an index of an abstract of title, being merely a list made by the Notary, which is in his office.

515 The Court:

I ruled on that once before; the objection is sustained.

Judge Fairman:

We save our exception. The plaintiff rests.

Cross Examination.

By Mr. MacIntyre:

Q. Mr. Fabrega, prior to 1825 you say your records are in bad shape?

A. Yes, sir.

Q. How about from 1825 down to the present,—are they all right and complete?

A. Yes, sir.

Q. Now, Mr. Fabrega, you state that the pile of unsorted documents in your office prior to the year 1825 would probably cover this table to a depth of eight inches,—is that correct?

A. Yes, that is about my calculation.

Q. Approximately, Mr. Fabrega, how many documents are contained in that pile?

A. That is impossible to state.

Q. Do you believe there are over ten thousand documents in that pile?

A. No,—not ten thousand.

Q. Mr. Fabrega, could five expert clerks working for one month sort up all that pile of documents and find out and index everyone that is in that pile?

A. Yes, if they are experts.

Q. Then if any deeds for the property of Lo de Caceres from the years 1755 to 1825 are existing, by the employment of proper men to look for them, and giving it a little time, they could easily be found?

A. Within a month or two?

Q. Four or five persons?

A. Yes, sir.

Q. Your documents from 1825 on down are in bound volumes, are they not?

A. Yes, sir. I wish to say in my defense all the old documents, all the Notaries have left them there, and I am there alone, and cannot do anything with them.

Q. If there really existed in your office a deed of great importance to Mr. Diaz,—the plaintiff herein,—if Mr. Diaz sent several experts to your office and

they took one or two months' time, they could find that deed, could they not?

A. Yes, it is very plain he could; certainly.

Judge Fairman:

He could find it providing the document was there?

A. Yes, that is self-evident.

Q. Do you have in your office indexes, and

516 in those indexes is there mention of the several documents described in plaintiffs' Exhibit No. 2,—

Mr. MacIntyre: (Interrupting):

We object to the witness testifying from that exhibit.

The Court:

Yes. You can just call his attention to certain deeds, do not refer to an exhibit not in evidence.

Judge Fairman:

I will ask you to state, Mr. Fabrega, are there any indexes in your office which show the transfer of real property or any reference to deeds between the years 1806 and 1825?

A. There are indexes, but in my judgment they are not complete.

Q. I exhibit to you here, a certificate which you have identified and ask you to state whether or not any of the deeds mentioned in that certificate are set forth in the index of your office?

Mr. MacIntyre:

We object to the witness testifying from Exhibit No. 2, which is not in evidence.

The Court:

Objection sustained.

Judge Fairman:

Exception. Plaintiff to offer by the testimony of the witness that the deeds described in the certificate offered in evidence as plaintiffs' Exhibit No. 2, are contained in the index in the office of the Notary Number One of the Republic of Panama.

Mr. MacIntyre:

To which we object on the ground that the only testimony as to the existence of a deed not proven to be lost, or its contents, is the deed itself.

The Court:

The objection is sustained.

Judge Fairman:

Exception. That is all, Mr. Fabrega. The plaintiffs rest.

Mr. MacIntyre:

The plaintiff having rested, we will at that time renew our motion that all of the exhibits introduced by the plaintiffs and received by the Court conditionally subject to being connected up, be stricken, to which we respectfully refer particularly to the following: Exhibit "B," purported to be a deed by which Pedro Miro conveyed the land now in dispute to Jose Maria Garcia de Paredes in 1832, upon the ground that the plaintiff has not established the fact that Pedro Miro was ever in possession of the land now in dispute, or any of the Lo de Caceres property. Second, Exhibit "C," being
517 record of an alleged judicial sale whereby Mrs. Catalina Lewis de Paredes, as representative of the heirs of one Ramon Garcia de Paredes, sold to herself the lands now in dispute, and other lands comprising the hacienda of Lo de Caceres, our objection

being on the ground that it has never been proved that Mrs. Cataline Lewis was one of the legitimate heirs or only heir of Ramon Garcia de Paredes, or Jose Maria Garcia de Paredes, or that Jose Maria Garcia de Paredes or Ramon Garcia de Paredes or Catalina Lewis de Paredes ever had or owned any interest or title in or to the land now in dispute in any of the land of Mata Redonda or Lo de Caceres.

We also object to the introduction of Exhibits "D," "E," "F," "G," "H," "I," "J," "K," "L," "M," "N," "O," "P," and "Q,"—said exhibits being deeds all based upon the alleged sale made by Mrs. Catalina Lewis to herself in the year 1895 of the lands which she has not been proven to have been in possession of.

We have special objection to Exhibit "B," not already mentioned; Exhibit "B" bears upon its face a certificate to the effect that although the deed from Pedro Miro to Jose Garcia de Paredes was supposed to have been executed in the year 1832, it was not recorded or registered by the said Paredes or by his son, or not until after said Paredes and his son had both died at the time it was recorded and registered by one of the heirs in the year 1895; that according to the law of real property the mere making of a deed without recording does not transfer possession or give the right to sell.

The Court:

You do not mean that?

Mr. MacIntyre:

I do, under the law of Panama there must be delivery of the seizin and title; that is the law of Panama and the Canal Zone.

The Court:

As I understand it, execution of the deed includes only the writing and delivery of it whether it is ever recorded.

Mr. MacIntyre:

In Panama there is a law, the possession is not complete until the delivery of the deed and the mere making of the deed does not confer ownership until recorded and registered; because the recording of the deed was considered a vital part of the transfer of ownership. Against Exhibit "C" we also urge the following objection: that exhibit on its face shows that it was a sale by Mrs. Lewis de Paredes through her son, Ramon Garcia de Paredes, as her attorney-in-fact, to hersalf; the deed on its face shows that no money passed; that the deed was fictitious, such act as attorney-
518 in-fact by both buyer and seller being strictly contrary to the law of the Republic of Panama at that time and at the present time, and also the law by which a mere fictitious deed where no money passes confers no property right. I move to strike out Exhibit "3" being the map which plaintiff has attempted to introduce conditionally upon the statement that it would be connected up authentically upon the ground that this map has not been verified, nor has the man who made the map been brought to Court to swear to its authenticity; on the contrary, Mr. Raggi, plaintiffs' own witness, stated there is a discrepancy between this map and map known as Exhibit "2" amounting to twenty meters in every 1420 meters, and that this map is evidently incorrect and inaccurate.

The Court:

The motion will be overruled for the present and the exhibit still remain in conditionally until the Court has

further time to hear the evidence read to see whether or not the proper foundations are laid.

Mr. MacIntyre:

I will further object to Exhibit No. "3", being the map upon which Mr. Raggi stated he placed a number of lines based on other maps whose authenticity he could not swear to; and Mr. Raggi stated one of the lines was what he calls the Porto Bello trail and was merely an extension about where he thought it ought to be, and that this map was made by Mr. Raggi as per his information from several deeds the authenticity of which he does not know, and from other maps the authenticity of which he cannot state.

The Court:

That objection will be sustained.

Judge Fairman:

Mr. Raggi's map is almost identical with this map here except the various deeds introduced in evidence are laid on the map. We will except to the rule on the ground that the exhibit in question is almost identical to No. "2."

Mr. MacIntyre:

We have one more objection to Exhibit "C," the alleged judicial sale: that that alleged judicial sale made by a judge at the instance of Mrs. Lewis de Paredes was not made before a Notary Public as is required by law for all transfer of real property.

(At this point Mr. Walter F. Van Dame is in Court, and his testimony is now taken).

The Court:

Mr. Reporter show where Mr. Van Dame's evidence comes in in the procedure at the proper place in defendant's testimony.

519 WALTER F. VAN DAME is now called by the defendant, and being duly sworn, is examined and testified as subjoined:

Direct Examination.

By Mr. MacIntyre:

Q. You are Walter F. Van Dame?

A. Yes, sir.

Q. At present Attorney for the Panama Railroad Company?

A. Yes, sir.

Q. And head of the Legal Department of The Panama Canal?

A. There is no such thing now.

Q. What is your full title?

A. Counsel for The Panama Railroad Company and Land Agent.

Q. Were you at any time Assistant to the head of the Legal Department?

A. I was.

Q. Were you as such Assistant to the head of the Legal Department connected with the adjudication of claims for property expropriated by the United States on the Canal Zone?

A. I was.

Q. How many years experience did you have in that office and that particular line of work?

A. From 1915 to 1920.

Q. How many years experience have you had as a practicing attorney?

A. Since 1913.

Q. Since 1913 you have had experience upon the Canal Zone?

A. Yes, sir.

Q. And since 1915 you have had particular experience in land matters connected with the Government?

A. Yes, sir.

Q. As such Assistant Attorney did you at any time conduct the defense or assist in the defense of claims before the Joint Land Commission for lands expropriated by the United States?

A. I did.

Q. Did you in such capacity as Assistant to the head of the Legal Department and Land Agent personally conduct any compromises, arrangements, or settlements with claimants outside of the Joint Land Commission or Court?

A. A great many, yes, sir.

Q. Did you in such capacity have anything to do with settlement made with the squatters or small cultivators on the lands shown in Exhibit "2," being a map of the property in the Sabanas called Mata Redonda?

A. No, I did not, as those settlements were made by the then Land Agent in 1916, I did not become Land Agent until January, 1917, but I have a knowledge of the fact that those settlements were made; they
520 are a matter of record in our office.

Q. That such settlements were made?

A. Yes, sir.

Q. Showing you plaintiffs' Exhibit "2," being a map, I will ask you if you recognize this map?

A. Yes, sir; that is one of the Canal Zone official maps, and I have the map here upon which we work,—that is, the Land Office,—at that time when these settlements were made with squatters within Mata Redonda; it is the same map without these later lines added here in the Court room.

Q. I will ask you to tell the Court the history of this map, how and by whose orders and why it was made?

A. It was made for the purpose of enabling The Panama Canal,—that is, the United States,—to ascertain what lands were privately owner in this immediate vicinity; it was made under the direction of the Law Department, Frank Feuille; the person who made it was O. E. Malsbury; its date is sometime in 1914. Mr. Malsbury was given excerpts of all deeds available to us at that time; we made a careful search in the Notary's office in regard to all these privately owned lands, and whenever we thought it necessary we obtained copies of the whole Notary's records, in other rare instances we took excerpts showing the boundary line, leaving out the introduction and all that; those deeds were all given to Mr. Malsbury, who went out on the ground then and established these certain lines shown on this official map.

Q. I will ask you is the map you have just exhibited to the Court the identical same map as is in evidence, Exhibit "2" without the addition of the lines which you say have been added in Court?

A. Yes, sir; except that the one in Court was a little revised in 1921, the one I brought with me was the original map.

Q. I will show you defendants' original Exhibit "A," introduced in the former hearing of this case and men-

tioned and referred to in the pleadings of defendant, and ask you if it is not an exact blue print, or copy of the map you hold?

A. It is, except for some green, purple and brown lines, which do not appear on your client's map.

Q. I will ask you if these green, purple and brown lines appear at white lines on my map?

A. They do; they were merely colored to
521 accentuate them.

Q. In all other respects the map is the same?

A. Yes, sir.

Q. And made by the same Mr. Malsbury?

A. Yes, sir, and from the same original.

Q. Under Mr. Malsbury's signature?

A. Yes, sir, it is.

Q. Referring to Exhibit "A," is that Mr. Malsbury's signature on that map?

A. It is a facsimile.

Q. Is that the same exact signature on the map you have as upon plaintiffs' Exhibit "2?"

A. It is.

Q. Is this a correct map, Mr. Van Dame?

A. That I do not know.

Q. Is it a correct or exact facsimile of Exhibit "2?"

A. Yes, sir, it is that.

Q. An exact facsimile?

A. Yes, sir.

Q. These maps are first drawn upon white paper and in black ink?

A. They are.

Q. And then photographed on sensative paper?

A. Yes, sir.

Q. Are these two maps, plaintiffs' Exhibit "A" and defendant's exhibit "2" photographed from the same original?

A. They are.

The Court:

They are all originals then.

Mr. MacIntyre:

They are both from the same original drawing.

Witness:

The same original, and revised by Mr. Malsbury in 1920; the basic lines are the same.

Mr. MacIntyre:

Is your map another photograph of the original before you?

A. It is exactly, except as I stated to accentuate certain lines they have been colored on our map.

Q. We wish to introduce the map marked defendant's exhibit "A" in evidence.

Judge Fairman:

There is no objection.

The Court:

Let it be admitted.

Mr. MacIntyre: (Continuing)

You started to tell us the reason your map was made was to get the location and owners of the land?

A. Yes, sir.

Q. In March, 1914, when the Land Office of The Panama Canal ordered this map made, was that office

aware of any controversy between Mr. Diaz and Mr. Patterson?

A. I was not in the office then, I came in 1915, and up until 1917 I knew very little of the Land Office, though I can state from our records of the set-
522 tlements made with squatters within Mata Redonda; the fact of any conflict does not appear at that time, when we settled with those squatters.

Q. Was this map, defendant's Exhibit "A," made by the Land Office for the purpose of being used as evidence for Mr. Patterson in the law suit of Mr. Diaz as to the location of the lands named on that map?

A. It was not; it was made for our own information; these maps were later used as Government-exhibits before the Joint Commission in the trial of those claims,—the same maps we gave to the claimants on each side.

The Court:

I did not quite understand you about settlement with squatters on the land in controversy here, what do you mean by that?

A. I mean this: there is a certain boundary line between Lo de Caceres and Mata Redonda estate, that boundary line was placed as it is on this exhibit just introduced by Mr. Malsbury, who was furnished deeds, or excerpts of deeds by our office; and he went out on the ground and located these various points and made his field notes and surveys, and then came to his office and drew this map, and this is the result of Mr. Malsbury's work. We knew nothing in 1916 when we settled with the squatters of any controversy,—we paid them only for the improvements, they made no claim to the ownership of the land,—they were merely tenants or trespassers, we did not know; but, at any rate, they were on the land, and under the law of Panama as

usual any squatter is entitled to compensation for improvements in case he is dispossessed. We dispossessed those people in 1916. We went to Mr. Patterson, who made no claim for their improvements, as he would not be entitled to claim for improvements anyway.

The Court:

Why did you go to Mr. Patterson?

A. Because from all information we had and the maps we had made of this land, it was Mr. Patterson's land; we knew at that time of no conflict between Patterson and Diaz; and in making settlement with something like probably a hundred and fifteen squatters on this piece of land we looked to Mr. Patterson to assist us; in making the inspection of their improvements we sent a man out,—Genac and Irwin,—you probably know these two men; all their inspection reports indicate they were tenants of Patterson.

The Court:

You say about a hundred and fifteen of them?

A. There were twenty-nine of whom we paid all the way from fifty dollars to five or six hundred dollars for their improvements; the inspection reports on file in our office,—a part of our permanent reports,—indicate these people held out to our land inspectors as
523 tenants of Patterson. Aside from those twenty-nine who were paid there were something like seventy-three who were not entitled to payment because they had already been compensated for other improvements they owned within the Canal Zone, and instead of going into Panama as they were told to after being given time to leave, nevertheless seventy-three of those people whom we found on Mata Redonda were within

that category,—they had been settled with the year before and allowed time to leave, and were told not to again locate within the Canal Zone, nevertheless seventy-three again squatted, and we again gave them notice to move on and told them because they had already been paid and had improperly squatted on the Canal Zone land we would not pay them. Twenty-five were bona fide squatters and—

The Court:

The seventy-three that re-squatted on this land in question re-squatted after the Government became the owner of the land in the Canal Zone?

A. Yes, sir; that is true.

Mr. MacIntyre:

Mr. Van Dame, you state that the twenty-nine whom you paid all held themselves out to your inspectors as being tenants of Guillermo Patterson?

A. Yes, sir, and the inspection reports indicate that; they were made by the land inspector who made the estimate of the improvements and their value.

Q. Was your office and were these land inspectors at that time interested in any controversy between Mr. Patterson and Mr. Diaz as to who owned the land here shown as Mata Redonda?

A. No.

Judge Fairman:

At this point I think it is just as well to interpose this objection, or at least this question: he states in this period the Land Department did not know of any dispute between Mr. Diaz and Mr. Patterson; I would like to ask if Mr. Diaz knew anything about the proceedings of your Land Inspectors at this time?

A. I do not know that, if he did, Mr. Fairman.

Q. It seems to me it is a one-sided proposition in which the plaintiff in this case had no fair opportunity to counteract in any way, shape or form; not only that, the thing itself is simply a report of the Land Inspector, this is not a report of the individual himself, the Land Inspector simply puts on his little report not what the man tells him but what he has found on the map furnished to him as to the location of the party whose improvements he is taking an inventory.

The Court:

If Mr. Diaz stood by for a number of years and allowed all the tenants on that land to be settled
524 with by the Government and not requiring it to settle with him, it would be apparent he was acquiescing these men were tenants of Mr. Patterson.

Judge Fairman:

Mr. Diaz was dispossed by the Government.

The Court:

If these men owed him rent I think he could collect. When did this rent commence?

Mr. MacIntyre:

They paid over a year.

The Court:

Since when?

Mr. MacIntyre:

1912 or '13.

Judge Fairman:

It also appears, I think, there was a friendly agreement that neither side should collect rent.

Mr. MacIntyre:

No, you are mistaken. (To witness): I will ask you to indicate on plaintiffs' Exhibit "2," and state where Blas Garibaldi's cultivation is shown?

A. Yes, sir; it is shown as being 2.2 hectares in extent; it is just west of the Old Porto Bello trail in Mata Redonda.

Q. Do your records in your office show to whom Blas Garibaldi reported himself as paying rent?

A. To Mr. Patterson.

Q. Did he state how many years he had been there?

A. At the time this inspection was made in 1916 he stated he had been there four years.

Q. He stated he was paying rent to Mr. Patterson?

A. He stated he had a lease from Mr. Patterson.

Q. I will ask you in respect to Santiago Ariza; did he make any statement to your office or the United States Government as to whom he paid rent?

A. Yes, sir, he did; he was settled with in March, 1916; he stated he had been on that particular piece of land on which he was found for six years; that he pays to Patterson.

Q. Showing you plaintiffs' Exhibit "2," I will ask you if upon this map the land of Santiago Ariza are indicated?

A. They are, on the north boundary of the Mata Redonda estate, about in the center of it, near Canal Zone monument No. 85.

Q. Does that location indicate the place where Ariza had the improvements for which the United States paid him?

A. Except the inspection report shows him to have been on Patterson's land, coupled with the fact that he is shown to have a cultivation therein.

525 The Court:

These improvements which you paid these Patterson's tenants, how long had these improvements been existent, if you know?

A. There were a great many old fruit trees there.

Q. About how many years?

A. They must have been fifty or sixty years old; the value of the permanent improvements being old fruit trees, it was agreed upon to be six thousand dollars, and ultimately, when the time for the trial came and we discovered there was a conflict it was stipulated between Mr. Diaz' attorneys and Mr. Patterson, that Patterson should be paid three thousand dollars of that six thousand dollars; and that the other three thousand dollars was to be fought out here, and, I think, that is the three thousand dollars that is now in Court.

Q. These improvements for which you paid the tenants of Patterson which you claim,—these improvements made by Patterson's tenants,—how long did they seem to have been in existence prior to your settlement in 1916?

A. In this instance, after the sterotyped question: "Time on ground," in Garibaldi's case it says "four years,"—that is in the handwriting of Mr. Irvin, the inspector; and later in Mr. Carlson's handwriting, the Land Agent, in ink, it states "two years on Mata Redonda," and says "eight years on other places." Again in the handwriting of the inspector, "lives in Sabanas in the Republic of Panama, has worked this place four years,"—that is the place to which we refer as being on Mata Redonda before we worked on the lands of Domingo Diaz later. Arizo's report says "six years."

Mr. MacIntyre:

How many years?

A. This record refers to Ariza, and in that instance he seemed to have been on the ground six years at the time the inspection was made.

The Court:

That is in 1916?

A. Yes, sir. (Continuing) There are a long list of others; one five years; another ten years; one went there in 1911; one six years; two years; four years; three years; here's one since 1908; another one sixteen years; five years; ten years; fifteen years; three years; one year; sixteen months; another one says April, 1911, that is four years; another four years; four and a half years; and five years. It seems very few of them had been there more than ten or eleven years at the most.

Mr. MacIntyre:

Mr. Van Dame, did the tenants themselves make any statements to your office concerning the ownership of the fruit trees around their cultivation?

526 Judge Fairman:

I object to that unless the statements were made to him.

Mr. MacIntyre:

Did the tenants make any official statement to the officers of the United States sent there for the purpose of paying for improvements as to the ownership of the fruit trees?

Judge Fairman:

I object to that unless the statements were made to him personally.

The Court:

He says after investigation he settled with them as the tenants of Patterson.

Mr. MacIntyre:

No, we do not need to insist on that question.

The Court:

He says some of these improvements were there for many years. For what did you settle with the Patterson tenants?

A. For annual crops, and their houses, and such as corn, yuca, plantain, and so on.

Q. How long had their houses apparently been on the land, if you know?

A. I do not know of my own knowledge, and furthermore it is hard to judge the age of a thatched house,—after it has been there a year or so it looks as if it might be there much longer.

Mr. MacIntyre:

When the United States took possession of the Canal Zone, who did the United States find in possession of the land shown on the two maps,—defendant's Exhibit "A" and plaintiffs' Exhibit "2",—as being in possession of the lands here marked as Mata Redonda, running from a point at the Pena Hueca, on Exhibit "2," to a point about a hundred meters west of Canal Zone monument 87, on the Canal Zone boundary line; thence in a northwesterly direction along the Canal Zone boundary to the Cardenas River at Monument 80; thence downstream on the Cardenas River until its junction with the Palangana; thence upstream on the Palangana until its junction with the Rio Platanar; then upstream on the Platanar to its headwaters; thence in a direct

line in an easterly direction to the Pena Hueca,—whom did the United States find in possession and actual occupancy of the land when the United States took possession of all lands in the Canal Zone?

A. I do not know of my own knowledge, but from the Land Office records—

Q. Do you know from the official records of the United States?

A. I do.

Q. Who is shown to be in ownership and possession and occupancy of this land from the official records of the United States?

527 Judge Fairman:
I object.

The Court:
Objection overruled; let him answer.

Witness:
Certain persons who stated they were tenants of the Patterson family.

Mr. MacIntyre:
That is all.

Cross Examination.

By Judge Fairman:

Q. All of the land which Mr. MacIntyre has just described to you by metes and bounds was expropriated for public use on December 5, 1912, by the United States?

A. Yes, sir.

Q. And the inspection and settlements to which you have testified took place some four years thereafter?

A. Yes, sir.

Q. And all dates, or time of occupancy, mentioned in these reports of the land inspector took into consideration the time prior to 1912?

A. No, they were all made in 1916, and as to the length of occupancy of these particular tenants that was determined by questioning the tenants in 1916.

Q. So that if a man stated he had been on there eight years he had been on there four years after the land had been expropriated by the United States Government?

A. No; the land, according to our theory, was taken over by virtue of the Executive Order of 1912,—that is four years before 1916.

Q. For instance, if a man stated to the inspector in 1916 that he had been there for a period of eight years, four years of that time would be after the land had been expropriated by the United States?

A. Yes, sir.

Q. So that the actual period of occupancy prior to the expropriation was four years, and that is true of all the parties you named?

A. Yes, sir.

Q. In fact some of them went on the land long after its expropriation?

A. I do not think the inspections show many of them to have been to have been there over four years.

Q. The seventy-three parties that you did not pay anything to, can you state the reason why they were not paid?

A. Yes, sir; in the first place, in commencing to clear the Canal Zone they naturally worked where it was most necessary first to get the people away from,—the waters of the lake were gradually rising,—and our inspectors cleared the lake area first that would be in-

undated; and after the lake area was cleared they worked with Mount Hope and around Colon, so that
528 in the ordinary course of events they would not get into this particular area until 1916, as this was not urgent; these seventy-three who were not paid, and while I cannot state positively, they were people who had been settled with in the lake area and had been given time to gather their crops and paid a certain amount of cash and told to get out of the Canal Zone and keep out and look for new land outside of the boundary; these seventy-three are some of those who did not follow that advice and re-settled within the Canal Zone.

Q. Then in a period of less than two years prior to 1916 these seventy-three had squatted again?

A. Yes, sir.

The Court:

Some wanted another settlement?

A. Yes, sir; some of them, three or four.

Judge Fairman:

And they were recent arrivals on that land?

A. Yes, sir.

Mr. MacIntyre:

When you used the word "squatter" you do not use it in its legal respect to give title?

A. No, that is the farthest from the mind of these people; they merely wanted a place to stay.

The Court:

None of them claim any of the land in question?

A. No.

Mr. MacIntyre:

Even these seventy-three claim to be tenants of Mr. Patterson?

A. I did not go into that; these people were all known personally to the land inspectors as those who had been settled before, and upon sight they were merely told they were in the wrong place, and were given six months, or whatever was necessary, to move on; that is the only investigation that was made there.

Judge Fairman:

Mr. Malsbury never mentioned to your Department any interest which Mr. Diaz had or claimed in this land?

A. Yes, at the time of the trial of the Diaz-Patterson claim.

Q. But not until 1918?

A. No.

Q. Your Department knew nothing of the claim of Mr. Diaz on the estate of Lo de Caceres?

A. No.

Q. Or that it was in conflict with the boundaries of that of Mr. Patterson for the estate of Mata Redonda?

A. No.

Q. And you made no investigation of any conflict between them, or have in your possession any knowledge of the boundaries of the estate claimed by Lo de Caceres?

529 A. That is a little bit hard to answer "yes" or "no"; we had probably all of the deeds in Court to-day, and as I say, they were turned over to Mr. Malsbury, and he went out and did the best he could in view of probably what he knew at the time were possibly conflicting.

Q. But you do not know whether at that time the deeds of Lo de Caceres were submitted to Mr. Malsbury?

A. I am fairly certain he had the Lo de Caceres deeds, as well as the Mata Redonda deeds.

Q. But any statement contained in your record with respect to the tenantcy of the various parties you have mentioned are based on this Malsbury map wherein the boundaries of Mata Redonda are located?

A. No; these inspection reports of the twenty-nine people for whom we paid money, when they were interviewed they stated they were Patterson's tenants.

Q. That is some of them did?

A. No, all of them,—that is all of the twenty-nine did.

Q. That is all.

GUILLERMO PATTERSON, JR., is re-called at this point, in order to be examined on the introduction of a document not certified the other day.

Direct Examination.

Mr. MacIntyre:

Q. Mr. Patterson, in testifying the other day, I asked you if you knew whether any of the adjacent land owners to Lo de Caceres made any protest when Mrs. Lewis de Paredes attempted to have a judicial sale in 1895?

A. Yes, sir.

Q. (Continuing) To which you answered that Mr. Carlos Ycaza Arosemena published something in the newspaper?

A. Yes, sir.

Q. You stated that was our Exhibit "C," but a search of the record failed to show it in the record, and evidently it was overlooked in compiling the record, I then exhibited to you Exhibit "C," but noticed it was not properly authenticated as required by our Code; I now hand you a paper marked defendant's Exhibit "C," and ask you what is that?

A. This is a copy of the notice published by Mr. Carlos Ycaza Arosemena, alongside of the notice of the sale of the property of Lo de Caceres in 1895.

530 Q. I will introduce in evidence defendant's Exhibit "C."

Judge Fairman:
No objection.

The Court:
It may be admitted in evidence.

Mr. MacIntyre:
The defense rests.

Judge Fairman:
The plaintiffs rest.

Mr. MacIntyre:
The defense moves for judgment.

531 . . . . . .

533 EXHIBIT "A"

Translation.

No. 24.

The Bishop of Panama protocolizes the files relating to "Hato Pintado" and "Lo de Caceres."

In the City of Panama, Department of Panama, Republic of Colombia, on the 23rd day of the month of January, eighteen ninety-nine, before Francisco Marquez,

personally appeared the Bishop of Panama, Doctor Alejandro Peralta, known to me and delivered to me for the purpose of being protocolized, the documents which annexed to this instrument I attach, forming forty-eight folios. The Registration tax was paid as appears from the vouchers herein attached.

In testimony whereof, this instrument is signed by the Illustrious Bishop and the instrumental witnesses Messrs. Jose Antonio Agredo and Jose Suarez. (Sgd.) Jose Alejandro—Bishop. Jose Antonio Agredo. Jose Suarez. Francisco Marquez, Notary Public Number One. This is in accordance with the original which I execute for Mr. Domingo Diaz A., on the 13th of July, nineteen seventeen. (Sgd.) Francisco Antonio Facio, Notary Public Number One. (There is a seal of the Notary's Office).

Copy.

Of certain documents concerning the Estate of "Lo de Caceres, protocolized in the Notarial Office No. One (1) of the Panama Circuit, on the 23rd day of January, 1899, under the number twenty-four (24).

The Doctor, Bernardo de Arbissa y Ugarte Esquire, of the Council of His Majesty, Mayor, and Judge of the Royal Court of Exchequer and Special Judge over the matters of the taxation, exemption and improvement of the lands of this Kingdom of His Majesty, etc., showeth thus: The appointment has fallen to me,
534 and more so by reason of the delegation made in my person by Diego de Zuniga Esquire, of the Royal Supreme Council of Indies, with reference to the sale, taxation, sub-division, arrangement and better-

ment of the lands of this Kingdom, in accordance with the Sovereign Will, thus to make and decree all orders that all persons, inhabitants and residents of this territory, who may under whatever title, cause or right, directly or indirectly, possess real and live-stock estate, exempted or not (taxed or not) may appear before me with all their titles, documents, and proofs of whatsoever kind under which they hold possession, as also those residents who may hold no title at all; and in order that this order may be known far and wide, it was promulgated by means of official proclamation by bands in this city under the authority of the Supreme Government, and in all other parts of the Kingdom by means of communication directed to all those in authority; and in compliance therewith, Juan Francisco de Caceres y Garrido, Sergeant-Major, (24th of this city), presented himself before this Court, and stated that he found himself possessed of the lands of a stock ranch of cattle at the place called La Calera and Lata Redonda, on the outskirts of this city, which belonged to Sergeant-Major Francisco de Caceres, his father, to which is annexed another piece of land which is the place which is actually called the Calera, which is connected with said ranch, and was acquired from Mrs. Isabel Alvarez, his mother, and that he required another piece of land bounding the said lands, possessed by his uncle, Antonio Romero, which three pieces of land were formerly confined to one portion only, and had been divided by order of the owner, and all three points run from the source of the River Hondo, on this bank, to a stream in the neighborhood of "Pan de Azucar," and from said stream, describing a straight line to Matasnillo, and following said straight line until opposite the source of a small stream which empties at the old city, and from the

source of the said stream following a straight
535 line upward to Sonsonate Hill and Gallinazo Hill, and thence to Mocambo (sic), the same line descending to the source of the river Hondo, there being comprised therein the stream called Castaneda; and he further stated (to the Court) that although the lands which he now claims were possessed by his parents in a manner free of all incumbrances as also does himself, for this reason and that contained in two (2) documents of judicial orders and written proofs which he exhibited and showed apparently that these lands are exempt, there being no possibility of tracing the official origin granting the exemption owing to the fact that these matters relate back to the time of the City of Old Panama, and that there now is the possibility to retain or have renewed those aforementioned rights and privileges over said lands, petition was made to me by him that these lands be now considered exempt (indultadas) compromising himself to present without prejudice to his rights now granted, the ancient title to exemption which his parents may have possessed and proof that they had paid the proper fees or dues to the Sovereign Government, agree to pay now the fee required to have these rights established. And in view of the documents and the petition made, I ordered that said Mr. John settle this matter with the mediation of the Legal Attorney of the Crown in conjunction with those persons who possess adjoining properties; and these parties having been cited to appear, he reported with three witnesses (who were Juan de Berros Esquire, twenty-fourth of this city, Manual Ignacio de Lore Esquire, and Lorenzo de Olivaldia y Arellano) gave corroborative evidence regarding the lands of the old estate and parcel attached, and, the same being sufficient in order to correctly ascertain the amount of the charge that should

thereon be placed, I made an order of the 25th of June, last, declaring the information received as ample, and that acknowledgment be made of the boundaries of the lands, committing these matters to the Provincial Alcado (or Mayor) Thomas de Urriola Esquire, that he might name a valuator or export in such matters, who being intelligent and accepting under oath the duties
536 of such valuator should fix the taxation; this having been done, the said Alcade went over the lands and found them as described with the boundaries exact being there no more public lands as he so swore on oath to God and by the sign of the Cross, and in the same manner he named as valuator Mr. Bonifacio Jaramillo de Andrade (24th of this city), he having been in company with the said Alcade at the time of the inspection of the boundaries and whose expert knowledge is based on experience over land matters and the fact that his parents possessed lands in those same parts, and who took the oath in due form, and in fulfillment of his duty taxed the aforementioned lands in the sum of fifty-five pesos declaring that in view of the fact that several portions of the lands were useless and stony the sum fixed was the true amount to the best of his knowledge and understanding. This done, the said Sergeant-Major asked that in view of the taxation made he be granted title to the lands as he was ready to pay the sum required, with respect to which I ordered that so soon as he should exhibit a receipt over the signature of Jose Ochoa de Arin of the Order of St. James, the treasurer of these possessions showing that the sum of fifty-five pesos had been duly paid, under date of the 12th of the current month, that title be granted declaring him the legitimate owner and possessor of said lands and that disposition may be made over these matters; and in order to give proof of the Right of Commis-

sion, the proper authentication, taxation and full receipt, they are herein inserted one after the other; The King inasmuch as under or by virtue of Royal Decree of the 16th November, 1717, declared among other things, that all matters should pass under the management of the Treasury and all orders thereto relating should pass privately in a reserved way, considering the grave injury that may be done in matters that relates to the arrangement of lands in the Indies and the product therefrom as well as to the fines that may be imposed by My Council, these do not pass to the care and control of Diego de Zuniga, Minister of the same Council,
537 as they did at the time when the Royal Decree was made, and with the view of avoiding such harm that may result in the collection of these arrears, as they may go contrariwise, I have resolved that the same Diego de Zuniga continue in the same commissions; that he understand this object with the obligation to render me account without passing resolutions over any matters that may thereto relate; in virtue of all which I order My Viceroys of Peru and of the New Kingdom of New Grenada, Presidents, Councils, Courts, Governors, Royal Officials, and the rest of Ministers of My domain of Peru, that notwithstanding said Royal Decree, all incomes from taxes of lands, fines, etc., should pass to the same Diego de Zuniga with the understanding that each one in his respective territory shall at the earliest opportunity remit to Spain a detail of the income from his charge to my Treasury for the purpose of the accounting by my Ministers of the Council of the Indies; such is my desire. Given in Madrid on the 7th December, 1720; I, the King: By order of the King, our Master, Francisco de Arana Esquire. The Auditors of the Treasury who remain in the Council of the Indies took copy of the Royal Decree: Alfonso de Buendia,

Esquire, Isidro de Velasco de Montoyo, Esquire: The Licentiate Diego de Zuniga, Esquire, of the Order of Saint James, Minister of the Supreme Royal Council of the Indies, and Special Judge appointed supervise the matters of the lands of the Crown (inter alia) in the Kingdoms of Peru and New Spain, by virtue of the Royal Decree and by the Gentlemen of the Supreme Council of the Indies, on the 30th of October of the past year (1892); the King my uncle (who in Holy Glory may be) made the following Royal Decree, of this tenor:

The King: Licentiate Bernardo de Valdez y Jiron, Esquire, of my Supreme Council, and of the Council of the war of the Indies, in obedience to my orders to go on making the collections of all the arrears and incomes that are due to be received and remitted to Royal Exchequer in order that they may be so augmented so that in view of the campaign of the coming year they may be in a position to meet the exigencies of the occasions that may arise under extraordinary circumstances, I have resolved by means of my Royal Decree of the 15th of September of this year that collection must be made of all that may be duing to my Royal Treasury arising from the sale of residences, lots of land in those regions, woodlands, farms or plantations, duties per centum charges, levies and whatever other things which from the crown may have been acquired by sale and while might not have been paid for in whole or in part, and from the termination of the period of six months counting from the date of the publication of this Decree, all those who might not have made good with the Treasury and who possess goods of whatever kind in this Kingdom of Castile and of the Crown of Aragon, the same shall revert to the

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Crown and be thereto adjudicated and be considered as part of the Royal patrimony and may be so utilised as may appear convenient, this to be carried out with respect to persons whomsoever or to entities for from all of them I withdraw their right, and to you I give the privilege to sub-delegate this commission to the ministers of the Court of Judicature, etc., of Peru and of New Spain, and by these to others; for thus it has been understood in My Council of the Indies that here a great number of possessors of property who hold no title at all nor reason to be in possession of such estates, while there are others who have added to what they originally possessed portions to which they have not been entitled, against My Royal Decrees and Laws comprised in Book Number 4, Title 12, of the new compilation of the Indies, My Council having conferred on said matters with regard to the remedy of this excess of possession, notwithstanding the fact that power has been given to My Viceroys, Presidents, and Governors of said Provinces, that moderation should be exercised with those who may have usurped title to lands that had not been regularly acquired and that those lands which
539 may have been or ought to have been arranged or apportioned (to settlers) should be sold by public sale to the highest bidder, I have found it necessary to delegate to you the same powers over the superintendence of the allotment of these lands, etc., with power to sub-delegate to the Ministers of the (Audencia) Councils or Court, and that in conformity with the foregoing and the condition of the lots allotted to those who possess title should be executed to these latter, with the understanding that within the term prescribed all those whose title may thus have been given and also those who may have fulfilled their obligations, their title should be dispatched to me for confirmation, this

to include those persons to whom title might have granted over excess lands in virtue of the right of purchase, all this in conformity with the intention of laws 14, 15, 16 and 21, of the Fourth Book, Title 12 of the compilation of the Indies; and from the product of such sale of lands, income and rental, as well as from those belonging to your sub-delegates, you shall appoint duly qualified and responsible persons under whose charge these sums of treasures may be conveyed to Masters of the Treasury (Maestros de Plata) under the captains and admirals of galleons, in order that they may be brought in parts and separately giving details of all that may to you be sent, and for the benefit of my service and as I may direct you to apply them, without including them into your bill of accounts, neither in the registers, and that your delegates are obliged to render you account in the minuest details, and you to my Council of all the lands that have been adjudicated to persons and in the same manner the product from them, with clear and distinct explanation of what each receipt is for, and all that may relate to quantity, quality, and kind, which may be entrusted to them, working strictly in conformity with Law and Right, and with respect to all that may heretofore relate I give you power and commission and to them in turn as may be re-
540 quired in Law, and if it be necessary in any case, that my wish as is to you expressed and as may be expressed to those whom you may sub-delegate, should not be interrupted nor disobeyed by my Viceroys, Governors, Presidents, and Courts, but rather that all the necessary aid and protection should be extended to you and your sub-delegates, I, this day will order and convey to the aforementioned officials intelligence to that effect; and should your decrees and orders as well as those of your sub-delegates be appealed, the

appeals shall be allowed before the Supreme Court of the Indies; and of this Royal Decree the Auditors of the Treasury will have taken notice of the contents thereof; Dated in the Royal Residence of San Lorenzo, this 30th of October, 1698; I, the King: By Order of the King our Master; Antonio Ortiz de Otalora; and afterwards by reason of the death of Bernardino de Valdes, Esquire, this commission was given to other Ministers of My Council of the Indies and in the same manner it being now vacant, and it being necessary to appoint a person of intelligence, enthusiasm and application, who may take care of this task and business, seeing that these and the rest of circumstances which the matter may require are satisfied in your person, I have the pleasure in appointing you and choosing you for the discharge of all that the foregoing decree may entail in one form or another in all that it declares and orders without limitation whatsoever; and for the present I authorize you, and constitute you, and in the same manner your sub-delegate of the same jurisdiction, power, and commission which was conceded to said Bernardino de Valdes, Esquire, and thus to all the ministers and sub-delegates, for thus it is my desire that in all that may be transacted with you or your ministers the same may be done in strict compliance of my Royal Decree as if it were directly addressed to you; without limitations whatsoever; and of this due notice must be taken by the Members who of My council of the Indies may remain; Dated in Madrid on the 10th of March,
541 1717; I, the King: By order of the King, Our Master (Lord): Andres de Corrubarutia y Zupede: The copy of the Original Royal Decree is exact extract, which original I certify to have returned to your Excellency; and using the authority which the Sovereign has thereby conferred on me, and in order that

it should have the perfect effect necessary, I sub-delegate the said Royal Decree and pre-inserted commission, and chose and appoint in consequence, in the first place Bernardo de Arbire y Ogarte, Esquire, and in his absence, or by reason of any other ligitimate cause Jaime Munoz de Gusman, Esquire, and for both reasons, in the third and last place, Jacobo Sanchez Samaniego, and thus successively as they may be named, I give and sub-delegate owing to absence and sickness to every one which may need or suffer, respectively or in turn, to each one of whom account will be taken of the punctuality, application in the Royal service and which may be effected with individual care, without fault or omission whatsoever as to the contents of the Royal Decree; thus in the same manner I give and concede to them the right to sub-delegate, in person or persons to their complete satisfaction, in order that should in case those to whom authority should be given it may be found impossible to execute the requirements of the Royal Decree, in the same manner as I have received the Royal Decree and am obliged to faithfully carry out its provisions and to make sub-delegations, these same individuals; who may not be able to carry out their commissions, may in turn appoint other individuals in order that in any case the Royal Decree may be carried into execution; and of whatsoever these said persons may do, they will go on giving me account as often as it may be convenient to do so with perfect distinction and clarity in order that I in turn may be able to render the same distinct details to the Council of whatever may have been done, and of this sub-delegation due note will be taken in proper books for the purpose (of the Treasury) in order that a record may be
542 taken of the Ministers who may from time to time be appointed, and in order that due care

may be taken and record kept of all that may abound to the good service of His Majesty, the best collection, and exact accounting of the receipts (royal). Dated in Madrid, the 16th of May, 1636; Diego de Zuniga: By His Majesty's Order: Antonio de Zalasar Esquire: I made a record: Juan de Miranda y Testa, Esquire: I took a record; Bernardo Calderon, Esquire: In the estate named San Jose de Higuerones, jurisdiction of this city, on the third of July, 1736, I captain Tomas Jose de Urriols Echeverria y Gonzales, Provincial Alcalde, in virtue of a commission made in my former to this act, made a survey of the lands of this estate and those pieces adjoining according to boundaries, which were to be seen at the introduction to the same letter of commission and found them in order without finding there any other waste or unclaimed lands other than those included in the boundaries, as I swear before God and the Sign of the Holy Cross in due form, has taxed these lands in conformity with the delegation made in, and accepted by him, for which I sign and certify: Tomas Jose de Urriola y Gonzales, and immediately appeared before Mr. Jose Bonifacio Jaramillo and said that with respect to the surveys, etc., he has accompanied and knew them all through as far as the boundaries of the property and adjoining lots were concerned and in view of the fact that many parts of the lands are useless and stony land, the present condition of the times he estimated as fair taxation of the lands in the sum of fifty-five pesos to the best of his knowledge, and he signed with me, of which I certify: Tomas Jose de Urriola y Gonzales, Esquire; Jose Bonifacio Jaramillo de Andrade, Esquire; in the City of Panama, July 9, 1736. Before me, His Majesty's Notary Public, and witnesses, appeared Jose Ochoa de Arin, Member of the Order of St. James, whom I swear I know. and as Receiver of

all that appertains to waste and exempt lands in this kingdom, confessed as having received from
543 Sergeant-Major Juan Francisco de Caceres de Garrido, Esquire, (24th of this city) the sum of fifty-five pesos and eighty cents which the Special Judge admitted as the true taxation made by Jose Bonifacio Jaramillo de Andrade, as at least it appears accordto the resolutions and orders made with regard to this matter of the estate of Higuerones and the rest of adjoining lands attached thereto, and according to the decree rendered today, the day in which it has been ordered that the same Don Juan should be put in power and control and who admitted as having received in full satisfaction or payment the said aforementioned sum, and under the circumstances the proper renunciations were made and the rights to the lands guaranteed, extending to the said Sergeant-Major Juan Francisco de Caceres letter and receipt of payment in due form, or the document which most secures his rights and he signed the following being or been witnesses; Pedro Parada del Vielar, Juan Antonio de la Flor, Baltasar de los Reyes, Jose Ochoa de Arin; Before me, Juan Ignacio de Aizpuro. This receipt agrees with the record of the same that has been taken, under the same date as the above—Juan Ignacio de Aizpuro; In conformity therewtih, exercising the powers vested in me by the royal decree and commission inserted, in the name of his Majesty, (whom God protect), I give and grant to the said Sergeant-Major Juan Francisco de Caceres y Garrido, for himself, his heirs, and successors, and whomsoever his right, title or interest may pass in whatsoever manner, the ownership and dominion of the lands of a stock farm of cattle at the place called Calera, otherwise known as San Jose de Higuerones and Mata Redonda, which I possess within the jurisdiction of this city, as also the ownership

and dominion of two other pieces of land adjoining, which were formerly one undivided estate, and all together extend from the headwaters of the River Hondo, on this side, to a stream in the neighborhood of Pan de Azucar, and from said stream, describing a straight line to Matasnillo, and following said straight line until opposite the headwaters of a stream which empties in the Old City, and from the source of said small stream, fol-
544 lowing a straight line upward to the Sonsonate Hill, and the Hill of Gallinasos, and thence to Mocambo, the same line descending to the source of the River Hondo, there being comprised therein the stream called Castaneda, together with all the brush land, pastures, pools and watering places thereof which, under the boundaries in question, are contained and belong, according to the information of them given, and declare that with the concurrence of the neighbours or the evidence they have given, he may possess, cultivate and freely dispose without impediment or resistence, as his own, (these lands, etc.) by means of having been granted them having paid the sum of fifty-five pesos and eight (reales) dimes as impost in which they were valued and taxed, which have been deposited in the possession of this commission, reserving as he does reserve, the said Juan de Caceres, his rights, should in case he present titles providing a more primitive grant and the proper payments or imposts made, I order to be given and I give, signed and sealed under my hand and seal of my arms, and countersigned by the undersigned Secretary of the Chamber, Government and War of this Commission, with the condition that within the term of five days counting from the date of this document, it may be presented before His Excellency the President—Governor and Captain-General of this Kingdom in order that all requirements fulfilled he may give confirmation, in

virtue of the authority vested in him from His Majesty the King, without prejudice to third parties who may have superior rights and of this title exact copies are made of all the orders and decrees relating thereto for continual reference. Given in Panama on the 19th July, (19th), 1736—Doctor Bernado de Alvira, Esquire—Before me, Francisco Nicolas de Aizpuro—There is a seal—The President Gov. and Captain-General: I, Sergeant-Major Juan Francisco de Caceres y Garcia (24th of this city) appear before you and say: that
545 by Order of the Judge of lands title has been granted or handed me over the lands which I possess in the neighbourhood of this City, and I present it with the necessary solemnity: In virtue of the foregoing I ask petition that you have the kindness to approve and confirm said title according to Law and Justice: Juan Francisco de Caceres: the title was presented with the signed approval of the Crown Attorney, there are (dos) two signatures: This decree was signed by the President, Governor and Captain-General of this Kingdom in the presence of Licentiate Jeronimo Suarez Patino, Assessor-General, who also signed in Panama, July 22, 1736; Francisco Nicolas de Aizpuro, he signed in Panama, on the same date of the notice by the Crown-Attorney of His Majesty, on examination of the title which was presented by Sergeant-Major Juan Francisco de Caceres, says: that the half-yearly Royal Impost having been paid the Crown-Attorney sees no impediment in confirming the tie title, which must be done in conformity with Justice, Panama, July 25, 1736: Licentiate Ferjo, investigating Mr. Juan Francisco de Caceres, with respect to the payment of the half-yearly impost, the proofs of the same were admitted. There is a signature: He ordered and signed this decree, the Brigadier Dionisio Martinez de la Vega, President, Governor

and Captain-General of the Kingdom, Panama, July 28, 1736; Francisco Nicolas Aizpuro, in the same day that the decree was made in favor the said Juan Francisco de Caceres, Aizpuro, Panama, July 30th, 1736; Information to the Auditor of the Healf-Yearly Imposts, there is a signature; the Auditor of the Half-Yearly Impost says:—that what is required to be paid as a fee consequent upon the granting of lands contained in the foregoing title amounts to one peso and six reals (or dimes) at the rate of eight to the peso, thus one peso and three reales as the rate for the exemption or grant, and at a rate of twenty thousand the maximum according to the rules governing these duties; and three reales for the conveyance to Madrid at the rate of 18% according to the Royal Orders, Panama, July 30th, 1736;
546 Jose Antonio Bazan, Esquire; Panama, 30th July, 1736.

Juan Francisco de Caceres will deposit in the Royal Treasury for the receipt of Half-Yearly imposts the sum of one peso reales as the proper duty to be paid for the reason already expressed, and make an entry to that effect in the Records of the (Media Annata) Half-Yearly Rentals or imposts, Patino. Juan Marias de Sandoval, Accountant, of the Royal Income and Estate of this Kingdom and Province of Veraguas of His Majesty, etc., certies thus: That today, the day of the date, Sergeant-Major Juan Francisco de Caceres paid in the Royal Exchequer for the Receipt of the Half-Yearly dues under my charge, the sum of one peso and six reales contained in the decree of taxation and over the matters therein contained, of which an entry has been made in the Record of the Receipt of the Half-Yearly imposts on page 28, and in good faith I give the present in Panama on the 31st July, 1736, Half-Yearly imposts, one peso and six reals; Juan Marsias de Sandoval :n

the City of Panama, on the First of August, 1736, Brigadier Dionisio Martinez de la Vega, President, Governor and Captain-General of this Kingdom, having seen the title which the Special Judge over lands has extended to Sergeant-Major Juan Francisco de Caceres, which he has nought, or has been granted by His Majesty, said: —that with respect to having paid the Half-Yearly imposts, the title ought to be confirmed and that he has confirmed it, in order that the said Sergeant-Major may enjoy the right over whatever is therein contained as his property and possession, and thus he ordered and signed in the presence of Licentiate Jeronimo Suarez Patino, the Assessor-General, who also signed; Martinez de la Vega; Patino; Francisco Nicolas de Aizpuru; before Jeronimo Marias de Sandobal, Lieutenant of the Governor-Auditor of War of this Kingdom and Special Judge over the matters of lands, to whom was presented this title of lands, read it and examined it, and then de-
547 clared it legitimate, and in conformity in all its parts, who ordered that it should be returned to the owner, to which I swear, in Panama, August 21st, 1755; Masias; Luis Jose Mateo; Notary Public (senior) of the Palace; Mr. Judge Especial for waste and unappropriated lands, Clara del Carmen Gongora de Caceres, Executris of my father Pablo Gongora de Caceres owner of the lands of the estate Caceres and all others thereto adjoining, exempted (appropriated or apportioned to him by reason of title in due form thereof appertaining, which I ask should be returned to me for keeping) before you appear and say: that finding myself, through my predecessors paternal, in possession for all time of the lands which run from the source of the Rio Hondo, on this side of said river to a brook which is in proximity to Pan de Azucar, and from said brook along a straight line to Matasnillo, and from there a straight line until

opposite the headwaters of a brook which discharges itself at the Old City, and from the source of said small brook following a straight line up to Sonsonate Hill and that of Gallinasos and from there to Mocambo, from whence the line runs down to the source of the Rio Hondo, lying inside the brook called Casteneda; and that the lady Mrs. Juana Baravena (who has nor ever did have title to lands) has been disturbing my peaceful possession of the lands which by proper title I possess and own, usurping as she does the right over those portions known as Cerro de Sonsonate and Gallinasos by collecting payments from those persons who inhabit said localities; and seeing that such action violates my rights and work injury to me, in view of the just right which I possess and which is resisted I ask and petition you that, having presented to you with my proper title (which I ask should be returned to me for keeping), that she be called to produce here, and further that in the act of notification that she produce her title to the said lands, should she fail to do so, having none as she really does not have, nor ever did have, she should be notified to return me the
548 rentals collected arbitrarily from Mr. Jose Rosario Diez, from Marcos Tilano, from the creoles called respectively Atancio and Baltazar but whose surnames I do not know, as also those from Juan Bautista Diaz and Joaquin Sotillo with the servants of Maria de la Trinidad Franco who are situated in the Gallinasos Hill, notifying her at the same time that she should abstain from make any further collections in one for or another, and that the said Jose del Rosario Diez, Marcos Tilano, the creole Anastacio and also Baltasar and the rest of persons before mentioned, should not pay her anything of whatsoever kind, which is Justice I ask, swearing on oath in due form, as I really do, that I do not proceed in my request, with malice;

(Sgd.) Clara del Carmen Gongora de Caceres; having been presented the title, let it be given to the opposite party. There is a signature. It was provided and signed (this decree) by Joaquin Carabajo, Esquire, Attorney of the Royal Council, Lieutenant-Governor and Auditor-General of the War Agent of these territories and Special Judge for the granting, taxation, sale and apportionment of lands of this Kingdom, Panama, 12th May, 1790. Ciriaco Hipolito Correoso—In Panama, on the same day and date (same month and year) I informed Luis de la Barrera y Negreiros of this provision—Correoso. This affidavit agrees with the title, documents, decrees, approval by the Crown-Attorney, orders, and other manuscripts and proceedings of which I have made comparison and of which mention has been made; and of the petition of the lady, Mrs. Clara del Carmen Gongora de Caceres, to whom I have returned the originals, I append my sign and signature, in Panama on this 22nd day of May, 1828:—Jose del Carmen Correoso, Notary or Secretary of Government and War. There is a sign (flourish at the end of the name).

This is a copy of the original protocolised in this Notarial Office on the 23rd of January, 1899, and I make an extract in nine sheets for Domingo Diaz A. Esquire, in Panama, on the third of May of the year 1912.

RAFAEL F. MARQUEZ,

(Seal) Notary Public No. One (1).

549 EXHIBIT "B"

Republic of Colombia.
Department of Panama.

General Administration of the Treasury of the Dept., Volume 5. I hereby certify:

That at folios 247 and 248 of the book of collection of Registry Fees and under the number 4560 there appears the following entry:

Panama, February 22, 1894.—On this date Jose G. de Paredes has paid six pesos and fifteen cents as the surcharge of 50% required by Act 39 of 1890 for documents not recorded within the legal period in the registry office of public and private documents of this Province; in which condition the deed without number executed by Pedro Miro comes, giving in sale by said deed in the year 1832 to Jose Garcia de Paredes the estate called "Caceres" for the sum of seven thousand six hundred and sixty-seven pesos of eight-tenths.

For the General Administrator of the Treasury of the Dept.

The Bookkeeper/Cashier,
(Sgd.) R. VALLARINO.

(Stamp Seal).

550 Let it be known that I, Pedro Miro, of this city, by these presents have executed a public sale from now and for all time is favor of Mr. Jose Garcia de Paredes, also of this city, so that it should belong to him, to his heirs, to his successors and to whomsoever in any manner may represent him, a certain estate known as "Caceres," with everything contained in the establishment known as "Algorroba," the house, personal properties, lands, pens, drinking places, and one hundred and forty-four head of cattle, rights of use and whatever as a matter of fact or right belongs to the said property, the boundaries of which we have agreed to be from the spot called Mata Redonda to Mocambo in a straight line, and from the spot called Mata Redonda on the side of Pan de Azucar the boundary shall be in accordance with the

ancient title; which said estate I acquired and purchased from Mr. Mariano Arosemena in accordance with Public Instrument executed before the Notary Office and as it is my own, for this reason (it is torn) from obligations, mortgage, or any other encumbrance different from those indicated, I hereby make the said sale to the said Mr. Jose Garcia de Paredes for the sum of Seven Thousand Six Hundred and Sixty-six Pesos ($7,666.00) which he has to recognize on the said species indicated, at the rate of three per cent. (3%), redeemable in favor of the interested parties as follows: Eight Hundred Pesos ($800.00) in favor of Clara Gongora, and after her death, in accordance with her desire; Three Hundred Pesos ($300.00) in favor of Doctor Pedro Escobar y Leon, who is a resident of La Paz; Four Hundred and Fifty Pesos and Two and One-half Cents ($450.0½) in favor of the Holy Ghost, which is kept in the Cathedral Church; Four Hundred and Fifty Pesos and Two and One-half Cents ($450.02½) in favor of Our Lady of the Carman; which is kept in the San Felipe Church; Four Hundred and Fifty Pesos and Two and One-half Cents ($450.02½) in favor of the ancient Convent of Santo Do-
551 mingo in this city; Two Thousand Two Hundred Pesos ($2,200.00) in favor of the Fathers of Saint Joseph in this city, and although the amount due them was Three Thousand Two Hundred Pesos ($3,-200.00) they have charged on Mata Redonda One Thousand Three Hundred Pesos ($1,300.00) in favor of the Reverend Father Casimiro Perez the interest of which the purchaser shall have to satisfy from the 12th day of the month of October. I hereby declare that the said amount of Seven Thousand Six Hundred and Sixty-six Pesos ($7,666.00) is the just and true value of the said estate "Caceres" and in case that its value should be greater, I hereby give it as a gift to the purchaser in a

good, pure and irrevocable manner in accordance with the law and especially with reference to Title XI of the Recopilation of the final title of partidas six for the purpose of not being able to rescind this agreement. That I hereby desist and set myself aside from the right, possession, ownership and dominion which I had to the said estate "Caceres." And I hereby transfer, renounce and set over to the purchaser so that he may have it as his by reason of this instrument which I execute as title for his possession and that he may dispose of same in accordance with his desire. And I bind myself to answer for eviction and all damages that may accrue by reason of this sale so that now and at all times the said sale may be sure and certain and that in the possession of which he shall not be disturbed by anybody and that if he should be disturbed I shall come to his defense and shall continue all proceedings at my expense until the purchaser is left in the quiet and passive possession, and if I cannot do so, then I shall pay all damages that he may suffer by reason of my not being able to answer by reason of this deed. And that for the fulfillment, validity and security of all the foregoing I bind my person and all the property that I have or may have in the future and I submit myself to the jurisdiction of New Granada and I waive my right of domicile and residence in everything to the effect that the plaintiff should follow to the domicile of the defendant so that they may execute,
552 compel and demand me in accordance with the right of the law and justice as if it were a judgment entered, and I waive all rights and privileges in my favor. And there being present and being informed of the contents of this instrument, I, Jose Garcia de Paredes, give myself as satisfied as if I had received the said property and everything therein annexed and belonging as indicated above, with the waiverers of the laws there-

in mentioned. And I bind myself to pay and satisfy the said interest to the interested parties as to the encumbrance on the property known as "Caceres" at the rate of three per cent (3%) per year and in favor of each one of them the due acknowledgment under the formalities in such cases. And I having satisfied the corresponding registration tax in accordance with the voucher granted by the proper officers, and which is as follows:

Voucher No. 63.

Collection of Tax and Mortgages and Registration of the Capital of the Department.

Under this date Mr. Pedro Miro has paid Four Pesos and Sixty-three Cents ($4.63) for the right of registration at the rate of one and one-half real per hundred on the sale which he has made to Mr. Jose Maria Paredes of the property known as "Caceres" for the sum of Seven Thousand Six Hundred and Sixty-six Pesos ($7,666.00). It so appears from page sixty-three of the respective book. Panama, October 11th, eighteen eighty thirty-two. The Collector of Tax Pedro Ledesma. Done in the city of Panama on the 12th day of the month of October, of the year eighteen hundred and thirty-two. And the contracting parties who I, the Notary Public, know, agreed as above, and they sign bbefore me with the witnesses. Jose B. Calso. Jorge Guiterrez. Sebastian de Leon. Pedro Miro. Jose Garcia de Paredes and R. Patino. Notary Public.

553 The above is a true copy of the original of the year 1832, which was done before the Notary Mr. Jose Rudecindo Patino, wherefrom it is taken as a fifth copy which I execute in four pages for

Mr. Jose Garcia de Paredes in Panama on the 10th day of the month of February, eighteen ninety-four. (Sgd.) Francisco Marquez, Notary Public number one.

Office of Public and Private Instruments of the Provinces:—Panama, February 24th, 1894. On this date the above instrument is registered on Pages 32 to 34. The Registrar, Jose Antonio Romero.

554 EXHIBIT "A-2"

Be it known that I, Francisco Davila, widow of the late Juan de Herrera y Torres, with the unanimous consent of Col, Francisco Picon, legitimate consort of Josefa Herrera y Torres, one of the legitimate heirs of said decedent, who in testimony whereof joins in the execution of this instrument, and signs, and I as the legitimate mother of my other minor daughters, as their tutoress asd guardian by right, appearing for and giving good and sufficient bond (sic) for Thomas Herrera y Torres, also my legitimate son and that of deceased husband, absent: stipulate by the tenor of these presents that I give in public sale from now and for all time to Mariano Arosemena, of this place, in order that it may be his, his heirs, successors, and whomsoever may in any manner represent his rights, a property called Caceres, together with all that comprised in the establishment of Algarrobo, the houses, furniture, lands, corrals, fences, cattle and horses found thereon branded with the iron of the property, pastures, watering-places, drinking troughs, uses, rights of way, and everything that by act and right appertains thereto, the boundaries of which are designated in the titles which I deliver to the vendee, which said property my late husband acquired from Jose Maria Behi LL.B. by public deed; and as the property, according to the estate testamentary proceedings, belongs to me, I

guarantee it for myself and on behalf of my other children whom I represent, free of pledge, obligation, mortgage, nor any other changes or lien other than that which shall be expressed, except the said sale to the aforesaid Mariano Arosemena for the intrinsic value of same which is eight thousand six hundred and sixty-six pesos, who is to recognize as a quit-rent and redeemable contribution in favor of the following interested parties: eight hundred and eight pesos of a patronage enjoyed by Clara Gongora, and on her death in whom it shall have fallen according to the call of the endowment; three thousand pesos in favor of Dr. Pedro Escobar y Leon, absent in La Paz, for whom Manuel Jose Ortiz acted as attorney; four hundred and fifty-one pesos, two and a half
555 dimes, to the fraternity of the Senor Sacramento, worshiped in this holy Cathedral church; four hundred and fifty-five pesos, two a half dimes in favor of the extinct convent of Santa Domingo of this city; four hundred anl fifty-five pesos, two and a half dimes, for our saint Senor del Carmen, worshiped in the parish of San Felipe; three thousand eight hundred pesos in favor of the convent of the Senor San Jose Agustinos Descalzos of this said city; and three hundred pesos Capellania (words unintelligible), adjudicated to the priest Casimiro Perez; the proceeds or income from the said property to run and be computed from the first day of May of the present year henceforth,—it being well understood that the vendee must seize for himself the possession and ownership of the said property Caceres and all annexed and appertaining thereto of which mention has been made; taking possession of the cattle and horses appearing with the iron and brand of the said property. And I declare for myself, and on behalf of my legitimate children and my deceased husband, that the said eight thousand eight hundred and sixty-pesos re-

ferred to is the just and true value today of the said property Caceres, and in case it be worth more, or may be worth more, I make a present and donation of the excess, in whosoever manner it may be, to the vendee, good, pure, mere, perfect and irrevocable of the kind that the law designates intervivos, with due presentation of document in Court accomplished, and the waiving of the law of the royal ordinance dated in Cortes de Alcala de Henares, and all other laws bearing thereon, and especially the first, title eleven, book 5 of the Code, and the last act of the concluding title, section 6, in order not to be able to request the rescission of this contract. Whereby I desist, also on behalf of my legitimate children, heirs of my late husband, from the right of possession which to the aforesaid property Caceres we had and held, and everything, together with that of the Royal Patronage, for myself, and on behalf of my children, I cede, renounce, and transfer unto the vendee, in order that as his own, which it is, by virtue of this deed given
556 him by me, as title of his possession, he may dispose of said property as he may see fit. And I bind myself in my own behalf, and on behalf of my said legitimate children, to the eviction, security and warranty of this sale in such manner that now and for all time it may be certain and secure to him, and against his possession no suit shall be brought, embarrassment, or contradiction, by any person whomsoever, and if any suit should be brought, or any steps be taken, upon same coming to my knowledge, and that of my said children, I shall appear, as well as they, in his defense therein, and I, as well as they, shall continue with the same at our cost and name until leaving the vendee in quiet and peaceable possession, or in event of not being able to do so we shall pay him the damages and loss caused him by reason thereof; by virtue of this deed, notice, and

the simple oath of the party competent therefor, without the necessity of any other justification or proceedings whatever, although by law they may be required, by reason of the fact that we relieve him of same. And for the compliance, validation and security of all herein referred to, I bind my property, and the property of my aforesaid legitimate children, which we now have, or may hereafter acquire, with the power of the Courts of justice of the Republic of Colombia, whereever they may be, to which Court and jurisdiction we submit and waive our own domicile and residence, and the law which says that the actor must follow the jurisdiction of the defendant, in order that pursuant to aforesaid statements execution may issue against us, and that we may be compelled and forced to the full extent of the law and by the executory channel, as if it were by judgment given on authority of res adjudicata, with regard to which, I, for myself, and for my legitimate children, waive all the laws, jurisdiction and rights in our favor, together with the law which prohibits the general law of the same in form. And being present and aware of the contents of this deed, I, Mariano Arosenmena, acknowledge my contentment and the delivery of the said property Caceres, and all annexed and appertaining thereto as the same
557 is detailed, through I myself seizing the possession of same, acknowledging the receipt thereof at my volition, by the waiving of the laws dealing with the thing not seen, the proof thereof, fraud, deception and other things in the premises, according to and as contained in same, for which I issue a receipt in form. And I bind myself to the payment and satisfaction of the respective proceeds annually to the chaplains interested in the encumbrances upon the said property Caceres, and to issue in favor of said chaplains the acknowledgments requisite, under the formalities established by law

in such cases. Dated in the city of Panama the 30th of April of the year one thousand eight hundred and thirty-one. And the vendor and vendee, whom I the undersigned Notary Public of the Province and order of the department of the Isthmus certify that I know, so stipulated and signed, together with Col. Francisco Picon, husband of Josefa Herrera y Torres (word illegible), serving as witnesses citizens Juan Jose Pacheco, Manuel Carrasco, Jr., and Juan Bautista Itarrado. At this stage, and Mariano Arosemena having satisfied the competent registry fee according to the law providing therefor, for the proper record in this instrument, and that it may at all times show compliance with the legal provision, the certificate issued by the Collector is shown, the tenor of which is as follows: Certificate number eighty-three—Collector's office of the Annotation of mortgages and registration of the Canton of the Capital of the Department of the Isthmus. On this date Mariano Arosemena has paid into this office five pesos, three and a half dimes, as the registry fee of the deed of purchase of the property Caceres which (words illegible) heirs of the late Juan de Herrera y Torres, eight thousand six hundred and sixty-six pesos arising from a quit-rent and redeemable contribution value being deducted. Same appears of record in entry eighty-three, sheet 27 of the respective book.—Panama, April 30, 1831.—The Collector, Pedro Ledezma. And, consequently, there
558 were present the witnesses mentioned, whose names are designated, and as a matter of record the purposes required must operate. Panama. J. Ruda Patino—Notary Public of the Province.

This copy, which I issue on three lawful sheets at the request of Mr. Domingo Diaz A., in Panama, the 22 day of November, 1920, agrees with the original thereof.

(Sgd.) ALFONSO FABREGA,

(Seal) Notary Public No. 1.

Eusebio A. Morales, Secretary of Finance, in charge of Government and Justice, Certifies: That the foregoing signature reading "Alfonso Fabrega" is the genuine signature of Notary Public No. 1 of this circuit in the lawful discharge of his duties.

Done in Panama the 9 day of the month of April, 1921.

(Sgd.) EUSEBIO A. MORALES.

The undersigned, Sub-secretary of Foreign Relations, Certifies: That the foregoing signature reading "Eusebio A. Morales" is the genuine signature of the Secretary of Government and Justice.

Done in Panama, April 9, 1921.

(Sgd.) JULIO LAFFARGUE. (Seal)

Canal Zone, Isthmus of Panama.

I, Jno. H. Smith, Acting Executive Secretary for The Panama Canal in charge of the Seal of the Government of the Canal Zone, certify that Lulio Laffargue is, and was on the ninth day of April, A. D. 1921, the duly appointed Sub-secretary of Foreign Relations of the Government of the Republic of Panama, and that his signature as hereinabove written is true and genuine.

Witness my hand and the seal of the Government of the Canal Zone this ninth day of April, 1921.

(Seal) (Sgd.) JNO. H. SMITH.

559 EXHIBIT "A-3"

Translation of Deed of Sept. 25, 1832, by which Pedro Miro transfers 1,000 pesos of the 3,000 with which he had his property called Caceres mortgaged, to his property Mata Redonda, in favor of San Jose Agustinos Descalzos.

In the city of Panama, the twenty-fifth of September of the year one thousand eight hundred and thirty-two, before me, the undersigned Notary Public of the Province and number, and witnesses, appeared Pedro Miro, of this place, known to me, and stated: That possessing as his own the property called Caceres, on which property, among other liens, there is recognized three thousand pesos in favor of the convent of the Juan Jose Augustinos Descalzos of this capital, and having concluded to transfer one thousand pesos of said sum to the property also belonging to him called Mata Redonda, situate in the outskirts of this city, which property is only encumbered with another capital of one thousand pesos, by reason whereof there is a resulting benefit to the said convent of San Jose, by virtue of which he has agreed that said transfer be made, and recognition of Tadeo Peres de Ochoa-Sebillano, syndic of the said convent of San Jose, who, as evidence of his acceptance, agrees to the execution of this instrument; wherefore, the registry fee being satisfied, as provided by law, the certificate issued by the collector of the entry of mortgages and registrations is inserted as a matter of record, the tenor whereof is as follows: Certificate number sixty-four—Collector's office of the Entry of mortgages and registrations of the Canton of the capital of the Department of the Isthmus. On this date Pedro Miro has paid into this office five reales (dimes) as the registry fee, at a half real per hundred,

of the transfer deed, transfer which he makes from the property Lo de Cazeres, to the Mata Redonda property, of a capital of one thousand pesos, which recognizes in favor of the convent of San Jose de Augustinos Descalsos of this city, under agreement with the said convent, and Gregorio Gomez Jr., who holds a mortgage on the said Mata Redonda property. It appears of record under entry sixty-four of the respective book. Panama, the twenty-fifth of September, one thousand eight hundred and thirty-two—The Collector, Pedro Ledesma. Where-
fore, the said Pedro Miro, certain, knowing his
560 rights, and that which appertains to him in the
present case, stipulates by the tenor of these presents, that he transfers, charges and places in the aforesaid, his Mata Redonda property, and all the appurtenances thereunto belonging, and corresponding, the said one thousand pesos, togegther with the annual payment of the proceeds therefrom at the rate of a three per cent, the tax thereon, in the total sum of the three thousand pesos, as property belonging to the aforesaid convent of San Jose in the said property of Escaceres (sic), the same being encumbered and attached, as stated, in the aforesaid property of Mata Redonda, and the aforesaid property of Escaseres free of said lien in view of this transfer. And he binds himself, his heirs, successors (subsesores), and whosoever else may hereafter possess the aforementioned property Mata Redonda, for the payment and satisfaction of the respective proceeds each year at the rate of three per cent, to run and be computed from the twelfth day of October next, to the respective syndic of the aforesaid convent of San Jose Augustinos Descalsos.

In witness whereof he so stipulated and signed, together with Tadeo Pares de Ochoa y Sebillano, syndic of the convent interested, and Gregorio Gomez, Jr., by the agree-

ment indicated by the certifificate of the Collector's office of the entry of mortgages, and of registrations, inserted, there appearing as witnesses citizens Bentura Calbo, Miro Tadeo Peres de Ochoa y Sevililano—grega Gomez, Gorge Gutierras, and Sebastian de Leon. (sgd.) Pedro Jr.—J. Rud. Patino, Notary Public of the Province.

This copy, which I issue at the request of Mr. Dominga Diaz A., in Panama, the first of March, one thousand nine hundred and twenty, on one sheet of legal cap, agrees with the original thereof.

(Stamp) (Sgd.) ALFONSO FABREGA,
Notary Public Number One.

561 EXHIBIT "D."

Instrument Number One Hundred Eighty-Nine.

Third Copy.

Mrs. Catalina Lewis de Garcia de Paredes conveys to Mrs. Victoria Garcia de Paredes de la Guardia, one-ninth portion of the lands and of the house of the Estate known as "Lo de Caceres."

Panama, August 10th, 1908.

In the City of Panama, Capital of the Province and of the Republic of the same name, on the tenth day of the month of August, nineteen hundred and eight, before me, Alejandro Briceno, Notary Public Number Two of the Circuit of Panama, and before the instrumental witnesses Messrs. Ernesto T. Lefevre and J. Tobias Urriola, males, of lawful age, residents of this city, in whom does not occur any legal impediment, to act as such, appeared Mrs. Catalina L. de Garcia de Paredes, female, widow, of lawful age, and Mrs. Victoria G. de Paredes de la Guar-

dia, female, married, of lawful age, assisted by her husband Mr. Juan N. de la Guardia, male, of lawful age, all of them natives and residing in this city, known to me, and they handed to me a memorandum of agreement of a deed to be entered as a Public Instrument, which in words and figures is as follows: "Mr. Notary Public Number Two of this Circuit: Please insert in the protocol of Public Instruments under your charge, a Deed in which is should appear that I, Catalina L. de Garcia de Paredes, female, of lawful age, widow of Ramon Garcia de Paredes, conveys in real and perpetual sale to my daughter Mrs. Victoria G. de Paredes de la Guardia, for the sum of Five Thousand Dollars ($5,000.00) Panamanian currency, and with the express consent of her husband Mr. Juan N. de la Guardia, who also signs in testimony of his acceptance of the one-ninth portion of the lands and of the house of the Estate known as "Lo de Caceres," which I acquired by purchase at public sale before the First Judge of the Circuit of
562 Panama on the twenty-seventh day of April, eighteen hundred and ninety-five, as appears from the minutes of the public sale of said year and which property corresponds to the inventory of the estate of my deceased husband, as also appears from the respective probate proceedings. The general boundaries of the aforementioned estate are as follows: On the East, the estate known as "La Carrasquilla;" on the West, the land of "Pan de Azucar" and that of "Mata Redonda"; on the North, the lands of "Mata Redonda" and that of "Lucha Franco"; on the South, the lands of Bernardo Arze Mata, which formed part of the said estate, and with lands of "Hato Pintado." The estate and house referred to is situated in this District. The contracting parties accept this instrument in the matter determined in these minutes and in proof of their acceptance sign it.

The Notary Public will bear in mind to insert the necessary clauses which the law requires in order that this instrument may be valid and guarantee the rights which it gives to the aforenamed Mrs. Victoria G. de Paredes de la Guardia. Signed in Panama on the 8th day of the month of August, nineteen hundred and eight. Catalina L. de Paredes. Victoria P. de la Guardia. Juan N. de la Guardia." All of the interested parties being present, Mrs. Victoria P. de la Guardia, stated: That authorized by her legitimate husband Mr. Juan N. de la Guardia, she accepts the sale made to her by Mrs. Catalina L. de Garcia de Paredes by this instrument, and also declares to have paid over to her the sum of Five Thousand Dollars ($5,000.00) Panamanian currency, being the price of this conveyance. The registration tax was paid as is shown by the voucher which is attached to the protocol along with the certificate relative to the land tax, so that they should be inserted in any copy or copies of this deed that may be issued. It was made known to the interested parties that the copy of this instrument must be registered in the respective office within sixty days from this date. Mrs. de la Guardia also
563 stated that from this date she has entered into the possession of the property conveyed to her, and Mr. de la Guardia stated: That in proof of his acceptance of the conveyance herein contained made to his wife, he signs the present instrument. This deed was read to the contracting parties in the presence of the instrumental witnesses above named, they all signed it before me. Catalina L. de Paredes. Victoria P. de la Guardia. Juan N. de la Guardia. E. T. Lefevre. J. Tobias Urriola. Alejandro Briceno, Notary Public Number Two. Panama, August ..., eight hundred and eight. To the Treasurer General of the Repubblic: Please certify if the Estate known as "Lo de Caceres," owned by Mrs.

Catalina Lewis, widow of Paredes, situate in this District, appears or not on the Tax List of Real Property and if said property is indebted to the Treasury for the contribution of Real Estate Tax. Yours very truly, Alejandro Briceno. Panama August eighth, nineteen hundred and eight. Office of the Treasurer General of the Republic. Let this petition be forwarded to the Collector of Real Estate Tax. The Treasurer General of the Republic—J. M. Alzamora. Panama, August eighth, nineteen hundred and eight. Office of the Collector of Real Estate Tax, of the Capital District. I hereby certify that the Estate known as "Lo de Caceres" does not appear in the Tax List of Real Property of the present period, and, therefore, is exempt from the respective tax. The Collector of Real Estate Tax, Samuel N. Ramos. Panama, August eight, nineteen hundred and eight. The Treasurer General of the Republic certifies: That the estate known as "Lo de Caceres" does not appear in the Tax List of Real Property of the present period. Carlos Ycaza, Republic of Panama, Treasury General. Volume X.—I certify that on page 250 of the Book of the Registration Tax under No. 2192, there appears the followisg entry: Panama, August ninth, nineteen hundred and eight. Mr. Alejandro Briceno has paid the sum of Five Balboas for the registration tax of a deed whereby Mrs. Catalina Lewis de Paredes conveys to Mrs. Victoria P. de la Guardia one-ninth portion of the estate known as "Lo de Caceres" for the sum of Two Thousand Five Hundred Balboas B/2,500.00. For the Treasurer General of the Republic. The Cashier —J. M. Alzamora.

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This third copy is in accordance with the original and I issue it for Mr. Domingo Diaz Arosemena in Panama on the 14th day of the month of November, nineteen hun-

dred and seventeen. (Sgd.) Archibald Boyd, Notary Public No. 2. (There is a seal).

Registrar's Office.—Panama, November 15th, nineteen seventeen. This instrument was registered on the 26th day of the month of August, nineteen hundred and eight in the ancient Registry of Public Instruments of the Province of Panama in Book One, Volume Three, of page three hundred and seventy-seven to three hundred eighty-one, under No. 232. The Registrar General (Sgd.) Gerardo Abrahams. (There is a seal.)

564 EXHIBIT "E".

Instrument Number One Hundred Ninety-Seven.

Mrs. Catalina Lewis de Garcia de Paredes sells to Mr. Guillermo Garcia de Paredes, one-ninth portion of the lands and of the house of the Estate of "Lo de Caecres."

Panama, August 15th, 1908.

In the City of Panama, Capital of the Province and of the Republic of the same name, on the fifteenth day of the month of August, nineteen hundred and eight, before me, Alejandro Briceno, Notary Public Number Two of the Circuit of Panama, and before the instrumental witnesses Messrs. Enrique Linares, and Pablo R. Villalobos, males, of lawful age and of this city, in whom does not occur any legal impediment to act as such, appeared Mr. Guillermo G. de Paredes, male, of lawful age, a native and resident of this city, known to me, and Mrs. Catalina Lewis de Garcia, de Paredes, female,
565 widow, of lawful age, also known to me, and handed to me a memorandum of agreement of a deed for the purpose of entering it as a Public Instru-

ment, which is in words and figures as follows: "Mr. Notary Public Number two of this Circuit. Please insert in the protocol of Public Instrument under your charge, a deed in which it should appear that I, Catalina L. de Garcia de Paredes, female, of lawful age, widow of Ramon Garcia de Paredes, of my free and voluntary will, sells in legal form to my son Mr. Guillermo G. de Paredes for the sum of Five Thousand Dollars ($5,000.-00) Panamanian currency, one-ninth portion of the lands and of the house of the estate known as "Lo de Caceres" which I acquired by purchase at public sale before the First Judge of the Circuit of Panama on the twenty-seventh day of April, nineteen hundred and five, as appears from the minutes of the public sale of said year, which property corresponds to the inventory of the estate of my deceased husband, as also appears from the respective probate proceedings. The general boundaries of the aforementioned estate are as follows: On the East the estate known as "La Carrasquilla"; on the West, the lands of "Pan de Azucar" and that of "Mata Redonda"; on the North, the lands of "Mata Redonda" and that of "Lucha Franco"; and on the South, the lands of Mr. Barnardo Arze Mata, which formed part of the said estate, and with lands of "Hato Pintado". The estate and house referred to is situate in this District. The contracting parties accepts this instrument in the manner determined in these minutes and in proof of their acceptance sign it.

The Notary Public will bear in mind to insert the necessary clauses which the law requires in order that this instrument may be valid and so guarantee the rights of the purchaser, Mr. Guillermo G. de Paredes. Panama, August fifteenth, nineteen hundred and eight. Catalina L. de Garcia de Paredes. Guillermo G. de Paredes. Being present the interested parties, Mr. Paredes states:

That he accepts the sale made to him by Mrs. Catalina L. de Garcia de Paredes by this instrument
566 and declares to have paid the sum of Five Thousand Dollars ($5,000.00) Panamanian currency, the purchase price of this conveyance and that he have from this date entered into the possession of the property referred to in this instrument. The registration tax was paid as is shown by the voucher which is attached to the protocol along with the certificate relative to the land tax so that they should be inserted in any copy or copies of this deed that may be issued. It was made known to the contracting parties that the copy of this instrument must be registered in the respective office within sixty days from this date. This deed was read to the contracting parties in the presence of the instrumental witnesses above-named, they all signed it before me. Catalina L. de Paredes. Gmo. G. de Paredes. Enrique Linares. Pablo Villalobos. Alejandro Briceno, Notary Public Number Two.

Republic of Panama. Treasury General. Volume X. I certify that on page 278 of the book of the Registration Tax under No. 2311, there is the following entry: Panama, August fifteenth, nineteen hundred and eight. Mr. Alejandro Briceno has paid the sum of five balboas for the registration tax of a deed whereby Mrs. Catalina L. de Paredes conveys to Mr. Guillermo G. de Paredes one-ninth portion of the estate of "Lo de Caceres" for the sum of Two Thousand Five Hundred Balboas (B/2,500.00). The Treasurer General of the Republic Carlos Ycaza. (There is a seal).

This second copy is in accordance with the original and I issue it for Mr. Domingo Diaz Arosemena in Panama on the 15th day of November, nineteen hundred

and seventeen. (Sgd.) Archibald Boyd, Notary Public No. 2. (There is a seal). Registrar's Office: Panama, November 15th, nineteen hundred and seventeen. This instrument was registered on the 16th day of September nineteen hundred and eight in the ancient Registry of Public Instruments of the Province of Panama in Book One, Volume four of page one hundred fifteen to one hundred eighteen under No. 264. The Registrar Gneral, Gerardo Abrahams. (There is a seal).

567 EXHIBIT "F".

Instrument Number Fifty-eight.

In the City of Panama, Capital of the Province and of the Republic of the same name, on the twenty-fifth day of the month of February, nineteen hundred and nine, before me, Alejandro Briceno, Notary Public Number Two of the Circuit of Panama, appeared Mrs. Catalina Lewis, widow of Garcia de Paredes, of lawful age, native and resident of this city, known to me, and stated: Please enter in the protocol of Public Instruments in your charge a deed whereby it should appear that I, Catalina Lewis de Garcia de Paredes, widow, and with the free administration of my property, give in real and effective sale to my daughters Mrs. Cristina Garcia de Paredes, widow of de Roux and Mrs. Otilda Garcia de Paredes de Arosemena, the last named, married and with the full consent of her husband Mr. Alfredo Arosemena, one-ninth portion to each one of them of the lands and of the house of the estate known as "Lo de Caceres" which I acquired by purchase at public sale before the First Judge of the Circuit of Panama on the twenty-seventh day of the month of April, eighteen hundred and ninety-

five, as appears from the minutes of the public sale of said year and which property corresponds to the inventory of the estate of my deceased husband, as also appears from the respective probate proceedings. The general boundaries of the aforementioned estate are as follows: On the North, the lands of "Mata Redonda" and "Lucha Franco"; on the South, the lands of Mr. Bernardo Arze Mara, which formed part of the said Estate, and with lands of "Hato Pintado"; on the East, the estate known as "La Carrasquilla", and on the West,
568 the lands of "Pan de Azucar" and those of "Mata Redonda". The estate and house referred to is situate in this District. The sale of each of the one-ninth portion of the aforesaid property has been made for the sum of One Thousand Five Hundred Dollars ($1,500.00) Panamanian currency, which makes a total of One Thousand Five Hundred Balboas (B/1,-500) and which I declare to have received from the aforementioned ladies to my entire satisfaction as the purchase price of this sale. Please also comply with all the formalities necessary for the validity of this deed. Being also present Mrs. Cristina Garcia de Paredes, widow of de Roux and Mrs. Otilda Garcia de Paredes de Arosemena, that stated: That they accept the sale made to them by this instrument, Mr. Alfredo Arosemena, being also present stated: That he has given his consent to his wife in order for her to make the aforesaid purchase. The registration tax was paid, and the voucher thereof is attached to the protocol along with the certificates relating to the land tax so that they should be inserted in the copy or copies that may be issued of this instrument. It was made known to the contracting parties that they must register the first copy in the respective office within sixty days from this date. The deed was read to the contracting parties

in the presence of the instrumental witnesses Messrs. Antonio Navarro E. and Jose Rogelio Dominguez, males, of lawful ages, residents of this city and they approved it; the purchasers declared that from this date they have each entered into the possession of the one-ninth portion of the estate known as "Lo de Caceres". They all signed this instrument before me Catalina L. de Paredes. Cristina P. de Roux. Otilda P. de Arosemena. Alfredo Arosemena. A. Navarro. E. J. R. Dominguez. Alejandro Briceno, Notary Public No. 2.

The undersigned, Notary Public No. 2 of the Circuit of Panama, certifies that in the protocol of this Notarial office for the year nineteen hundred and eight, there appears Public Instrument number one hundred ninety
569 containing the following certificate: Panama, August eight, nineteen hundred and eight. The Treasurer General of the Republic certifies that the estate known as "Lo de Caceres", does not appear in the Register of Land Tax. (Sgd.) Carlos Ycaza. Panama, February twenty-fifth, nineteen hundred and nine. (Sgd.) Alejandro Briceno. (Seal). Republic of Panama, Treasury General's Office, Volume XI. I certify that on page sixty-four of the book of the registration of taxes under number 234, there is the following entry: Panama, February twenty-fifth, nineteen hundred and nine. Mr. Alejandro Briceno has paid the sum of three balboas (B/3.00) for the registration tax of a deed whereby Mrs. Catalina L. de Paredes conveys to Mrs. Cristina P. de Roux and to Mrs. Otilda P. de Arosemena two-ninth portions of the estate known as "Le de Caceres" for the sum of One Thousand Five Hundred Balboas (B/1,500.00). The Treasurer General of the Republic. The Cashier. (Sgd.) Ernesto J. Goti. (There is a seal)

This first copy is taken from the original and I issue it for the purchasers aforementioned in the City of Panama, on the twenty seventh day of the month of February, nineteen hundred and nine. (Sgd.) Alejandro Briceno, Notary Public No. 2. (There is a seal.)

Registrar's Office: Panama, May 5th, nineteen hundred and nine. This first copy is recorded on pages two hundred and ninety-four to two hundred and ninety-seven of Book One, under number seventy-four. The Registrar. (Sgd.) Octaviano B. Perez. (Seal.)

570 EXHIBIT "G".

Instrument Number Eighty-two.

Whereby Mrs. Catalina L. de Paredes conveys one-ninth portion of the estate known as "Lo de Caceres" to Mrs. Catalina P. de Escobar.

Panama, May 4th, 1909.

In the City of Panama, Capital of the Province and of the Republic of the same name, on the seventeenth day of the month of March, nineteen hundred and nine, before me, Alejandro Briceno, Notary Public Number Two of the Circuit of Panama, appeared Mrs. Cataline Lewis, widow of Garcia de Paredes, of lawful age, born and domiciled in this city, known to me, and states: Mr. Notary Public Number Two of this Circuit: Please insert in the protocol of Public Instruments under your charge, a deed in which it should appear that I, Cataline Lewis de Garcia de Paredes, widow, and with the free administration of my property, conveys in real and perpetual sale to my daughter Mrs. Cataline de Paredes de

Escobar, with the consent of her husband Mr. Lisandro Escobar, one-ninth portion of the lands and of the house of the estate known as "Lo de Caceres", which I acquired by purchase at public auction sale before the First Judge of the Circuit of Panama on the twenty-seventh day of the month of April, nineteen hundred and ninety-five, as appears from the minutes of the public sale of said year and which property corresponds to the inventory of the estate of my deceased husband, as also appears from the respective proceedings. The general boundaries of the aforementioned estate, are as follows: On the North, the lands of "Mata Redonda"; on the South, the lands of Bernardo Arze Mata, which formed part of the said estate, and with lands of Hato Pointado; on the East, the estate known as "La Carrasquilla", and on the West, the lands of "Pan de Azucar" and that of "Mata Redonda". The estate and
571 house referred to is situate in this District. Said sales I have effected for the sum of One Thousand Five Hundred Dollars ($1,500.00) silver equivalent to seven hundred and fifty balboas (B/750.00) which I declare to have received to my entire satisfaction. Please insert the necessary clauses which the law requires in order that this instrument may be valid and guarantee the rights of the purchaser. Being present, Mrs. Catalina Garcia de Paredes de Escobar, she stated: That she accepts the sale to her by this instrument. Mr. Lisandro Escobar being also present, stated: That he have given his consent to his wife in order for her to make this purchase and he also signs along with her this deed. The registration tax was paid as is shown by the voucher which is attached to the protocol along with the certificate relative to the land tax. It was made known to the interested parties that the copy of this instrument must be registered in the respective office

within the legal term. The purchaser declared that from this date she has entered into the possession of the one-ninth portion of the estate referred to. This deed was read to the contracting parties in the presence of the instrumental witnesses Messrs. Manuel Antonio Herrera A. and Hector Contreras Acosta, males, of lawful age, competent witnesses, they all approved and signed it, before me. Catalina P. de Paredes. Catalina P. de Escobar. Lisandro Escobar. M. A. Herrera A. Hector Contreras Acosta. Alejandro Briceno, Notary Public No. 2.

Certificate:

The undersigned Notary Public Number Two of the Circuit of Panama, certifies, that in the protocol of this Notarial Office for the year nineteen hundred and eight, there appears the following certificate: Panama, August 8th, nineteen hundred and eight. The Treasurer General of the Republic certifies that the estate known as "Lo de Caceres" does not appear in the Register of Land Tax. (Sgd.) Carlos Ycaza. Panama, March 10th, 1909. Alejandro Briceno. (Seal). Republic of Panama. Office of the Treasurer General. Office of the Treasurer General of the Republic Volume XI. I certify that on page one hundred and eight of the book of the registration of taxes under No. 391, there appears the following entry: Panama, March 17th, nineteen hundred and nine. Mr. A. Briceno has paid the sum of B/1.50 for the registration tax of a deed whereby Mrs. Cataline L. de Paredes conveys to Mrs. Cataline P. de Escobar one-ninth portion of the estate known as "Lo de Caceres" for the sum of Seven Hundred and Fifty Balboas (B/750.00) For the Treasurer General of the Republic. The Cashier. (Sgd.) J. M. Alzamora. (Seal).

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This first copy is taken from the original and I issue at the request of Mrs Cataline P. de Escobar, in the City of Panama, on the fourth day of the month of May, nineteen hundred and nine. (Sgd). Alejandro Briceno, Notary Public No. 2. (Seal).

Registrar's Office: Panama, May eighth, nineteen hundred and nine. This first copy is recorded on pages three hundred and eighty-three to three hundred and eighty-six, of Book One, Volume Two, under number one hundred and seventy-nine. The Registrar. (Sgd.) Octaviano B. Perez. (Seal).

573 EXHIBIT "H".

Instrument Number Eighty-nine.

Mrs. Catalina L. de Paredes conveys two-ninths portion of the Estate known as "Lo de Caceres" to Mr. Ramon G. de Paredes.
Panama, March 30th, 1909.

In the City of Panama, Capital of the Province and of the Republic of the same name, on the 30th day of the month of March, nineteen hundred and nine, before me, Alejandro Briceno, Notary Public Number Two of the Circuit of Panama, appeared Mrs. Catalina Lewis de Garcia de Paredes, female, widow, of lawful age, born and domiciled in this city, known to me and handed me a memorandum of agreement of a deed to be entered as a Public Instrument, which is in words and figures as follows: Mr. Notary Public Number Two of this Circuit: Please insert in the protocol of Public Instruments under your charge, a deed in which it should ap-

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pear that I, Cataline Lewis de Garcia de Paredes, widow, and with the free administration of my property, give in real and effective sale to my son Mr. Ramon Garcia de Paredes, two-ninths portions of the house and lands of the estate known as "Lo de Caceres", which I acquired by purchase at public sale before the First Judge of the Circuit of Panama on the twenty-seventh day of the month of April, eighteen hundred and ninety-five, as appears from the minutes of the public sale of said year. This property belonged to the estate of my deceased husband, Mr. Ramon Garcia de Paredes, as appears from the respective probate proceedings. The boundaries in detail, are as follows: A straight line from Mocambo to the spot called Mata Redonda, thence to the headwater of Platanar Creek, and along the latter down stream to its confluence with the Palangana creek and following the natural course parallel with the ancient royal pass or crossing of the Rio Hondo at the place used for crossing in order to go from this city to the estate of Mata Redonda, and following in a straight line to the said pass it continues along the Royal Road of Mata Redonda aforementioned up to a stream or ditch in the meadows and which runs south to north; the said stream comprises a series of hills with the hill of Pan de Acuzar on the one and the other bank until flowing out into the Sananas continuing up this stream to some bushes (Chumicos) where there are some wells, the source thereof, and from which point the source of a muddy ditch which empties itself into the Matasnillo
574 is sought, continuing therefrom and uniting its waters in the Matasnillo with those of another stream flowing a little further down the meadows of the Gallinero and which lay between these streams, of these streams the one that is on the north side in the boundary of the lands of "Lo de Caceres" up to its

juncture with the river Matasnillo and then along the Matasnillo up stream until striking an imaginary line running to the summit of the hill of Barro Colorado, and that of Gallinero. This straight or visual line is drawn from the summit of the highest part of the hill of Barro Colorado which hill is in view from the house of the estate of "Lo de Caceres" to the summit of its highest part of the hill of the Gallinero in the lands of "La Loceria", which hill can be located by drawing the said visual line to the slopes or lowest part of the hill "La Pava", and from this hill to the slopes of Ancon Hill. From the summit of the hill of Barro Colorado another straight or visual line is drawn to the highest part of the small hill of Bruno Zerda which is in the vicinity of the headwaters of a stream serving as a bathing place for the estate of "La Carrasquilla" and which empties itself within the vicinity of the front part of the slaughter house of Old Panama. From the headwaters of this stream a straight line to the summit of the hill of Sonsonate, then towards the Tesorera Creek, and along this stream to Mocambo, the starting point. Within the estate of "Lo de Caceres" is not included the land ceded to Mr. Jose Garcia de Paredes by virtue of a transaction made before the First Judge of the Circuit, the boundaries of which are as follows: From the small hill that is near the house of Hardomio Arosemena and near the road known as Cerrito de Las Yucas a straight line is drawn to the concrete bridge made by Mr. Adolfo Aleman on the point where this line traverses the coach road, and this is the starting point, thence a straight line is drawn to the well from which the family of Jose Garcia de Paredes used to take drinking water, thence a straight line to the headwaters of a
575 creek that empties into the Charco de Los Penenes in Rio Abajo; thence down stream as

far as the Creek that is beyond the banana trees purchased by Mr. Ramon Garcia de Paredes from Pedro Andres, thence upstream as far as the headwaters of the said creek thence a straight line as far as the fence of the sugar cane mill of Baldomero Mendez and Harmodio Arosemena, and then along the said fence as far as the Cerrito de Las Yucas which was the starting point. It does not belong either to the estate of Le de Caceres, the land conveyed to Mr. Adolfo Aleman by Mrs. Catalina Lewis, widow of Garcia de Paredes in June, 1895 by Public Instrument No. 61, before Notary Public No. 2, the boundaries of which were made more clear by Instrument No. 16 of January 24th, 1903.

The house and estate referred to is situate in this District.

I have effected this sale for the sum of One Thousand Five Hundred Balboas (B/1,500.00) which I declare to have received from the purchaser to my entire satisfaction. Please insert all the legal requirements necessary in order that this deed may be valid. Panama, March 17th, 1909. Cataline L. de Paredes. Being also present Mr. Ramon Garcia de Paredes, male, of lawful age, born and domiciled in this city, known to me, he stated: That he accepts the sale made to him by this deed, and that from this date he has received the thing sold and entered into the possession of it to his entire satisfaction. The registration tax was paid, and the voucher thereof is attached to the protocol along with the certificates relating to the land tax so that they should be inserted in the copy or copies that may be issued of this instrument. It was made known to the contracting parties that they must register the first copy in the respective office within sixty days from this date. This deed being read to the contracting parties in the presence of the instrumental witnesses Messrs. Francisco Antonio

Facio and Manuel Antonio Herrera A., males, of lawful age, born and domiciled in this city, credible
576 witnesses, they approved and signed it before me. Catalina L. de Paredes. R. G. de Paredes. Francisco Antonio Facio. M. A. Herrera A. Alejandro Briceno. Notary Public No. 2. Republic of Panama. Treasury General. Volume XI. I certify that on page one hundred ten, of the book of the registration of taxes under 397, there appears the following entry: Mr. Alejandro Briceno has paid the sum of Three Balboas (B/3.00) for the registration tax of a deed whereby Mrs. Catalina Lewis de Garcia de Paredes conveys two-ninths portion of the estate known as "Lo de Caceres" to Mr. Ramon G. de Paredes for the sum of One Thousand Five Hundred Balboas (B/1,500.00). For the Treasurer General. The Cashier, J. M. Alzamora. (Seal).

Certificate.

The undersigned Notary Public Number Two of the Circuit of Panama, certifies, that in the protocol of this Notarial Office for the year nineteen hundred and eight, there appears Public Instrument number one hundred and ninety containing the following certificate: Panama, August 8th, nineteen hundred eight. The Treasurer General of the Republic certifies that the estate known as "Lo de Caceres" does not appear in the Register of Land Tax. (Sgd.) Carlos Ycaza. Panama, thirty-first of March, nineteen hundred nine. Alejandro Briceno. (Seal). Republic of Panama.

This first copy is taken from the original and I issue it at the request of Mr. Paredes, in the City of Panama, on the 30th day of April, nineteen hundred nine. (Sgd.) Alejandro Briceno, Notary Public No. 2. (Seal).

Registrar's Office. Panama, May 6th, nineteen hundred nine. This first copy has been recorded today on pages three hundred sixty to three hundred seventy-six, Book One Volume II under number one hundred sixty-six. The Registrar. (Sgd.) Octaviano B. Perez, (Seal).

577 EXHIBIT "I".

Instrument Number One Hundred and Six.

Mrs. Catalina L. de Paredes conveys one-ninth portion of the estate known as "Lo de Caceres", to me—Manuel G. de Paredes.

Panama, May 4th, 1909.

In the City of Panama, Capital of the Province and of the Republic of the same name, on the fourth day of the month of May, nineteen hundred and nine, before me, Alejandro Briceno, Notary Public number two of the Circuit of Panama, appeared Mrs. Catalina Lewis de Garcia de Paredes, female, widow, of lawful age, born and domiciled in this city, known to me and stated: Please enter in the protocol of Public Instruments in your charge a deed whereby it should appear that I, Catalina Lewis de Garcia de Paredes, widow, and with the free administration of my property, give in real and effective sale to my son Mr. Manuel Garcia de Paredes, one-ninth of the lands and of the house of the estate known as "Lo de Caceres", which I acquired by purchase at Public Sale before the First Judge of the Circuit of Panama on the twenty-seventh day of the month of April, eighteen hundred and ninety-five, as appears from the minutes of the public sale of said year. This property belonged to the estate of my deceased

husband Mr. Ramon Garcia de Paredes, as appears from the respective probate proceedings. The general boundaries are as follows: A straight line from Mocambo to the spot called Mata, Redonda, thence to the headwaters of Platanar Creek, and along the latter down stream to its confluence with the Palangana Creek and following the natural course parallel with the
578 ancient royal pass or crossing of Rio Hondo at the place used for crossing in order to go from this city to the estate of Mata Redonda, and following in straight line to the said pass it continues along the Royal Road of Mata Redonda aforementioned up to a stream or ditch in the meadows and which runs south to north; the said stream comprises a series of hills with the hill of Pan de Azucar on the one and the other bank until flowing out into the Sabanas continuing up this stream to some bushes (Chumicos) where there are some wells the source thereof, and from which point the source of a muddy ditch which empties itself into the Matasnillo is sought, continuing therefrom and uniting its waters in the Matasnillo with those of another stream flowing a little further down the meadows of the Gallinero and which lay between these streams, of these streams the one that is on the north side in the boundary of the lands of "Lo de Caceres" up to its juncture with the river Matasnillo and then along the Matasnillo up stream until striking an imaginary line running to the summit of the hill of Barro Colorado and that of Gallinero. This straight or visual line is drawn from the summit or highest part of the hill of Barro Colorado which hill is in view from the house of the estate of "Lo de Caceres" to the summit of its highest part of the hill of the Gallinero in the lands of "La Loceria", which hill can be located by drawing the said visual line to the slopes or lowest part of the hill "La

Pava" and from this hill to the slopes of Ancon Hill. From the summit of the hill of Barro Colorado another straight or visual line is drawn to the highest part of the small hill of Bruno Zerda which is in the vicinity of the headwaters of a stream serving as a bathing place for the estate of "La Carrasquilla", and which empties itself within the vicinity of the front part of the slaughter house of Old Panama. From the headwaters of this stream a straight line to the summit of the hill of Sonsonata, then towards the Tesorera Creek, and along this stream to Mocambo, the starting point. Within
579 the estate of "Lo de Caceres" is not included the land ceded to Mr. Jose Garcia de Paredes by virtue of a transaction made before the First Judge of the Circuit, the boundaries of which are as follows: From the small hill that is near the house of Harmodio Arosemena and near the road known as Cerrito de Las Yucas a straight line is drawn to the concrete bridge made by Mr. Adolfo Aleman on the point where this line traverses the coach road, and this is the starting point, thence a straight line is drawn to the well from which the family of Jose Garcia de Paredes used to take drinking water, thence a straight line to the headwaters of a creek that empties itself into the Charco de los Penones in Rio Abajo; thence downstream as far as the Creek that is beyond the banana trees purchased by Mr. Ramon Garcia de Paredes from Pedro Andres, thence upstream as far as the headwaters of the said Creek thence a straight line as far as the fence of the sugar cane mill of Baldomero Mendez and Harmodio Arosemena, and then along the said fence as far as the Cerrito de Las Yucas which was the starting point. It does not belong either to the estate of "Lo de Caceres" the land conveyed to Mr. Aldolfo Aleman by Mrs. Cataline Lewis, widow of Garcia de Paredes in June, 1895,

by Public Instrument No. 61 before Notary Public No. 2, the boundaries of which were made more clear by Instrument No. 16 of January 24, 1903.

The house and estate referred to, is situate in this District.

I have effected this sale for the sum of Two Hundred and Fifty Balboas (B/250.00) which I declare to have received from the purchaser to my entire satisfaction. It was so declared, and being also present Mr. Manuel Garcia de Paredes, male, of lawful age, born and domiciled in this city, known to me, stated: That he accepts the sale made to him by this deed, and that from this date he has received the thing sold to his entire satisfaction. It was made known to the
580 contracting parties that they must register the first copy in the respective office within the term prescribed by law. This deed was read to the contracting parties in the presence of the instrumental witnesses Messrs. Hector Contreras Acosta and Julio C. Fernandez, males, of lawful age, credible witnesses, it was approved and they all signed before me. Cataline L. de Paredes. Manuel G. de Paredes. Hector Contreras Acosta. Julio C. Fernandez Alejandro Briceno. Notary Public Number Two.

Certificate.

The undersigned, Notary Public Number Two, of the Circuit of Panama, certifies, that in the protocol of this Notarial Office for the year nineteen hundred and eight. there appears Public Instrument number one hundred and ninety containing the following certificate: Panama, August eight, nineteen hundred and eight. The Treasurer General of the Republic certifies that the estate known as "Lo de Caceres" does not appear in the

Register of Land Tax. (Sgd.) Carlos Ycaza. Panama, May fourth, nineteen hundred and nine. (Sgd.) Alejandro Briceno. (Seal). Republic of Panama, Treasury General's Office, Volume XI. I certify that on page one hundred and thirty-six of the book of the registration of taxes under No. 538, there is the following entry: Panama, May fifth, nineteen hundred and nine Mr. Alejandro Briceno has paid the sum of (B/0.50) for the registration tax of a deed whereby Mrs. Catalina Lewis de Garcia de Paredes conveys to Mr. Manuel G. de Paredes one-ninth portion of the house and of the estate known as "Lo de Caceres", for the sum of Two Hundred and Fifty Balboas (B/250.000). For the Treasurer General of the Republic, The Cashier, (Sgd.) J. M. Alzamora. (There is a seal).

This first copy is taken from the original and I issue it at the request of Mr. Manuel Garcia de Paredes, in the City of Panama, on the 14th day of May, nineteen hundred and nine. (Sgd.) Alejandro Briceno, Notary Public No. 2.

Registrar's Office. Panama, May 21st, 1909. This first copy have been recorded today on pages eighty-six to ninety-two, Book One, under number one hundred and eighty-nine. The Registrar. (Sgd.) Octaviano B. Perez. (There is a seal).

581 EXHIBIT "J".

Number 59.

In the City of Panama, capital of the province and of the Republic of the same name, on the 26th day of the month of February, 1909, before me, Alejandro Brice-

no, Notary Public Number Two of the Circuit of Panama, there appeared Mrs. Cristina Garcia de Paredes de Roux and Otilda Garcia de Paredes de Arosemena, the former a widow with the free administration of her property, and the latter married but being assisted by her husband Alfredo Arosemena who granted his consent in order to effect this transfer, all of lawful age, and domiciled in this circuit, known to me, and stated:

That by means of this Public Inmprovement they give in real and effect sale to Mr. Domingo Diaz Arosemena, male, of lawful age and of this domicile, two-ninths portions of the estate known as "Lo de Caceres", which we acquired by purchase from Mrs. Catalina Lewis de Garcia de Paredes, by Public Instrument No. 58 of this year, issued in this Notarial Office. The said sale they have made for the sum of $1500.00 Panama Silver currency for each one-ninth part, that is B/1500.00 in all, which sum they declare to have received at their entire satisfaction. The general boundaries of the property out of which two-ninths are conveyed are as follows: On the North the lands of Mata Redonda and Lucha Franco; on the South the lands of Bernardo Arze Mata which formed part of the same lands of Hato
582 Pintado; on the East the estate known as "La Carrasquilla", and on the West the lands of Pan de Azucar and Mata Redonda. The property is situate in this District. They made known in an express manner that the house and farm of Mr. Juan Navarro Diaz are not included in the transfer, the said property being about 100 meters square, and being situated between the royal road and the creek, and facing the houses of the heirs of Antonio Zubieta and Octavio Vallarino.

Mr. Domingo Diaz Arosemena, being also present stated that he accepts the transfer made in his favor and

that he has delivered to the vendors the said sum of B/1500.00. Mr. Alfredo Arosemena being also present said that he has given his consent to his wife to effect this transfer, which he will sign in order to prove his assent. And the deed was signed in the presence of the instrumental witnesses after having been read to the parties by the undersigned Notary Public, and after Mr. Diaz Arosemena stated that this purchase is made for his father Mr. Domingo Diaz.

(Sgd.) OTILDA P. de AROSEMENA,
(Sgd.) CRISTINA P. de ROUX,
(Sgd.) A. NAVARRO E.,
(Sgd.) ALFREDO AROSEMENA,
(Sgd.) DOMINGO DIAZ A.,
(Sgd.) J. R. DOMINGUEZ.
(Sgd.) ALEJANDRO BRICENO,
Notary Public No. 2.

(Certificates).

The first copy is in accordance with the original and I issue it for Mr. Domingo Diaz, in Panama, on the 8th day of the month of March, 1909.

(Sgd.) ALEJANDRO BRICEN
(Seal) Notary Publi No. 2.

Registrar's Office, Panama, March 13, 1909. This first copy is recorded on pages 3565 to 360 of Book 1, under number 86.

The Registrar,

OCTAVIANO B. PEREZ,

(Seal)

583 EXHIBIT "K".

No. 83—March 18, 1909.

Whereby Catalina P. de Escobar conveys to Domingo Diaz One-ninth of "Lo de Caceres".

In the City of Panama, Capital of the Province and of the Republic of the same name, on the 18th of March, 1909, before me, Alejandro Briceno, Notary Public No. 2 of the Circuit of Panama, personally appeared Mrs. C. Garcia de Paredes de Escobar, a woman, of lawful age, married, and assisted by her husband, Mr. Lisandro Escobar, who gives his consent to carry out this transfer, both domiciled in this city, known to me, and the said lady stated: That by this Instrument she gives in real and perpetual sale to Mr. Domingo Diaz represented by his Attorney-in-act Mr. Domingo Diaz Arosemena male, of lawful age, born and domiciled in this city, one-ninth (1/9) part of the lands known as "Lo de Caceres" which she acquired by purchase from Mrs. Catalina Lewis de Garcia de Paredes as is shown by Public Instrument No. 82 of this year issued in the Notarial Office. The sale has been made for the sum of 1,509 dollars Panama currency, that is 750 Balboas, which she declares to have received from the purchaser to her satisfaction. The general boundaries of the estate are as follows: On the North, the lands of Mata Redonda and Lucha Franco; on the South, the lands of Mr. Bernardo Arze Mata, which formed part of the same estate, and with the lands of Hato Pointado; on the East,
584 the estate known as "La Carrasquilla", and on the West, the lands of Pan de Azucar and Mata Redonda. The estate is situated in this district.

Mr. Domingo Diaz Arosemena, being present, known to me, stated: That in the name and representation of his father Mr. Domingo Diaz for whom he holds a General Power of Attorney, he accepts the transfer made by this Instrument along with all the clauses therein contained; that he has delivered to the Vendor the sum of 750 dollars which is the consideration of this contract and that from this date he has received the one-ninth (1/9) part of the above-mentioned estate of "Lo de Caceres". Mr. Lisandro Escobar, who was also present stated that he has given his consent to his wife to carry out this transfer and execute the corresponding instrument which he will also sign. The registration tax was paid as is shown by the voucher which is attached to the protocol along with the certificate relative to the land tax, so that they should be inserted in any copy or copies of this deed that may be issued. It was made known to the contracting parties that the first copy of this instrument must be registered in the respective office within sixty days from this date. This deed was read to the contracting parties in the presence of the Instrumental witnesses Mrs. Manuel Antonio Herrera A., female, and Hector Contreras, male, of lawful age, domiciled in this city, competent witnesses, and they all signed before me. (Sgd.) Catalina F. de Escobar. (Sgd.) Lisandro Escobar. (Sgd.) Domingo Diaz Arosemena. (Sgd.)M. A. Herrera A. (Sgd.) Hector Contreras Acosta. (Sgd.)Alejandro Briceno, Notary Public No. 2.

Certificate: This first copy is in accordance with the original, and I issue it for Mr. Domingo Diaz in Panama on the 4th day of May, 1909. (Sgd.) Alejandro Briceno, Notary Public No. 2. (Seal). Registrar's Office: Panama, May 8, 1909. On this date the first copy of this Instrument is recorded on page 387 to 390 of

Book one, Volume two, under No. 170. The Registrar. (Sgd.) Octaviano B. Perez. (Seal).

583 EXHIBIT "L".

Number 94.

In the City of Panama, Capitol of the Province and of the Republic of the same name, on the 7th day of the month of April, 1909, before me, Alejandro Briceno, Notary Public No. 2 of the Circuit of Panama, there appeared Messrs. Domingo Diaz A. and Ramon Garcia de Paredes, both males, of lawful age, domiciled in this city, known to me, and they handed over to me the memorandum of agreement of a Deed to be entered as a Public Instrument, which is as follows: Mr. Notary Public Number 2: Please enter in your protocol of this year a deed in which it should appear that we, that is, Domingo Diaz A., in his character of General Attorney-in-fact for Domingo Diaz, and Ramon Garcia de Paredes in his own name, have agreed to make the following exchange: Mr. Domingo Diaz her his Attorney-in-fact gives in effective transfer to Ramon Garcia de Paredes one building lot in the ward of Calidonia in the place known as Santa Rosa, enclosed within the following boundaries: On the north lot and house of Mr. Domingo Diaz A; on the south a street that up to now has no name; on the east, house of Mrs. Isabel Maria Diaz, widow of Navarro, and on the west, house of the Misses Ucros. The measurements are etc., etc.

....

Mr. Garcia de Paredes in payment of this transfer gives the two-ninths parts of the estate of "Lo de Caceres",

situated on Las Sabanas, which he obtained by purchase from Mrs. Catalina Lewis, widow of Garcia de Paredes, as shown by Deed No. 89, of March 31, of this year, before Notary Public Number 2. The boundaries are: A straight line from Mocambo to the spot called Mata Redonda, thence to the headwaters of Platanar Creek, and along the latter down stream to its con-
586 fluence with the Palangana Creek and following the natural course until reaching a point parallel with the royal pass or crossing of the Rio Hondo at the place used for crossing in order to go from this city to the estate of Mata Redonda, and following in a straight line to the said pass it continues along the Royal Road of Mata Redonda aforementioned up to a stream or ditch in the meadows and which runs south to north, the said stream comprises a series of hills with the hill of Pan de Azucar on the one and the other bank thereof until flowing out into Sabanas continuing up this stream to some bushes (Chumicos) where there are some wells, the source thereof, and from which point the source of a muddy ditch which empties itself into the Matasnillo is sought, continuing therefrom and uniting its waters in the Matasnillo with those of another stream flowing a little further down the meadows of the Gallinero and which lay between these streams, of these streams the one that is on the north side is the boundary of the lands of "Lo de Caceres" up to its juncture with the river Matasnillo and then along the Matasnillo up stream until striking an imaginary line running to the summit of the hill of the Gallinero. This straight or visual line is drawn from the summit or highest part of the hill of Barro Colorado which hill is in view from the house of the estate of "Lo de Caceres" to the summit of the highest part of the hill of the Gallinero in the lands of "Lo de Caceres",

which hill can be located by drawing the said visual line to the slopes or lowest part of the hill "La Pava", and from this hill to the slopes of Ancon Hill. From the summit of the hill of Barro Colorado another straight or visual line is drawn to the highest part of the small hill of Bruno Zerda which is in the vicinity of the headwaters of a stream serving as a bathing place for the estate of "La Carrasquilla", and which empties itself within the vicinity of the front part of the slaughter house of old Panama. From the headwaters of this stream a straight line to the summit of the hill
587 of Sonsonata, then towards the Tesorera Creek, and along this stream to Mocambo, the starting point. Within the estate of "Lo de Caceres" is not included the land ceded to Mr. Jose Garcia de Paredes by virtue of a transaction made before the first Judge of the Circuit, the boundaries of the which are as follaws: From the small hill that is near the house of Harmodio Arosemena and near the road known as Cerrito de Las Yucas a straight line is drawn to the concrete bridge by Mr. Adolfo Aleman on the point where this line traverses the coach road, and this is the starting point, thence a straight line is drawn to the well from which the family of Jose Garcia de Paredes used to take drinking water, thence a straight line to the headwaters of a creek that empties itself into the Charco de los Penones in Rio Abajo; thence downstream as far as the Creek that is beyond the banana trees purchased by Mr. Ramon Garcia de Paredes from Pedro Andres, thence upstream as far as the headwaters of the said Creek, thence a straight line as far as the fence of the sugar cane mill of Baldomere Mendez and Harmodio Arosemena, and then along the said fence as far as the Cerrito de Las Yucas which was the starting point. It does not belong either to the estate of "Lo de Caceres"

the land conveyed to Mr. Aldolfo Aleman by Mrs. Catalina Lewis, widow of Garcia de Paredes in June, 1895, by Public Instrument No. 61 before Notary Public No. 2, the boundaries of which were made more clear by Instrument No. 16 of January 24, 1903.

We deem the consideration or price of this exchange in the sum of $6,000.00 that is B/3,000.00 for each portion. Panama, April 6, 1909. Domingo Diaz, A. R. G. de Paredes.

The Registration Tax was paid, etc. .....

This instrument having been read in the presence of the instrumental witnesses Messrs Manuel A. Herrera, and Lino C. Herrera C., males, etc., of good
588 credit, it was approved and they all sign before me. (Sgd.) R. G. de Paredes. Domingo Diaz A. M. A. Herrera, A. L. C. Herrera C. Alejandro Briceno, Notary Public No. 2.

Certificates:

This first copy if in accordance with is original and I issue it for Mr Domingo Diaz, in Panama, on the 13th of May, 1909.

ALEJANDRO BRICENO,
(Seal) Notary Public No. 2.

Registrar's Office. Panama, May 13, 1909. This copy is registered on the 7th day of this month on pages 376 to 383 of Book One. Volume 2, under the number 168.

The Registrar,
OCTAVIANO B. PEREZ.

(Seal).

589 EXHIBIT "M".

No. 107, May 5, 1909.

Whereby Manuel G. de Paredes Conveys to Domingo Diaz One-ninth Portion of "Lo de Caceres."

In the City of Panama, capital of the Province and of the Republic of the same name, on the fifth day of May, 1909, before me, Alejandro Briceno, Notary Public No. 2 of the Circuit of Panama, there appeared Mr. Manuel Garcia de Paredes, male, of lawful age, born and domiciled in this city, known to me, and stated: Please enter in the protocol of Public Instruments in your charge a deed whereby it should appear that I, Manuel Garcia de Paredes, a widower, and with free administration of my property, give in real and effective sale to Mr. Domingo Diaz, represented by his son Mr. Domingo Diaz Arosemena, who is his general attorney-in-fact (as shown by power-of-attorney) which I acquired by purchase from my mother Mrs. Catalina Lewis de Garcia de Paredes in accordance with Instrument No. 106 of this month and year issued in this Notarial Office. The general boundaries of the property are a straight line from Mocambo to the spot called Mata Redonda, thence to the headwaters of the Platanar Creek, and along the latter down stream to its confluence with the Palangana Creek and following the natural course until reaching a point parallel with the Old Royal Pass or crossing of Rio Hondo at the place used for crossing in order to go from this city to the estate of Mata Redonda, and following in a straight line to the said pass it continues along the Royal Road of Mata Redonda aforementioned up to a stream or ditch in the meadows and which runs south to north; the said stream

comprises a series of hills with the hill of Pan de Azucar on the one and other bank thereof until flowing out into the Sabanas continuing up this stream to some bushes (Chumicos) where they are some wells the source thereof and from which point the source of a muddy ditch which empties into the Matasnillo is sought, continuing therefrom and uniting its waters in the Matasnillo with those of another stream flowing a little further down the meadows of the Gallinero or thereby close and which lay between these streams. Of these streams the one which is on the north side is the boundary of the lands of "Lo de Caceres" up to its juncture with the river Matasnillo and then along the Matasnillo up stream until striking an imaginary line running to the summit of the hill of the Gallinero. This straight or visual line is drawn from the summit or highest part of the hill of Barro Colorado which hill is in view from the house of the estate of "Lo de Caceres" to the summit of the highest part of the hill of the Gallinero in the lands of "Lo de Caceres" which hill can be located by drawing the said visual line to the slopes or lowest part of the hill La Pava and from this hill to the slopes of Ancon Hill. From the summit of the hill of Barro Colorado another straight or visual line is drawn to the highest part of the small hill of Bruno Zedra which is in the vicinity of the headwaters of a stream serving as a bathing place for the estate of "La Carrasquilla", and which empties itself within the vicinity of the front part of the slaughter house of Old Panama. From the headwaters of this stream a straight line to the summit of the hill Sonsonate, thence towards the Tesorera Creek, and along this stream to Mocambo the starting point. Within the estate of "Lo de Caceres" is not included the last transfer to Mr. Jose Garcia de Paredes by virtue of a transaction

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made before the First Circuit Court, the boundaries of which land is as follows: From the small hill that is near the house of Harmodio Arosemena known as Cerrito de Las Yucas, and the said line is drawn to the concrete bridge made by Mr. Adolfo Aleman on the point where this line traverses the coach road, and this is the starting point, thence a straight line is drawn to the well from where the family of Mr. Jose Garcia de Paredes is supplied with drinking water, thence a straight line to the headwaters of a creek that empties itself into the Charco de los Pe. ones in Rio Abajo; thence down stream as far as the creek that is beyond the banana trees purchased by Mr. Ramon Garcia de Paredes from Pedro Andres, thence upstream as far as the headwaters of the said creek, thence a straight line as far as the fence of Baldomero Mendez and Harmodio Arosemena (Engineer) and then along the said fence as far as the Cerrito de Las Yucas which was the starting point. Neither is included the lands conveyed to Adolfo Aleman in June, 1895, by Instrument No. 61 befor Notary Public No. 2, the boundaries of which were rectified by deed No. 16 of January 24, 1903. The estate is situated in this district in the place known as "Las Sabanas". The sale I have made for the
591 sum of 250 Balboas, which I acknowledge to have received from the purchaser to my entire satisfaction.

Mr. Domingo Diaz Arosemena, male, of lawful age, being present, stated that in his character of general attorney-in-fact for Mr. Domingo Diaz he accepts in the name and representation of his father the sale made to him by this Public Instrument and that from this date he has received the thing sold. The registration tax was paid, and the voucher thereof is attached to

the protocol along with the certificates relating to the land tax so that they should be inserted in the copy or copies that may be issued of this instrument. It was made known to the contracting parties that they must register the first copy in the respective office within the legal term. This deed having been read in the presence of the instrumental witnesses Mrs. Hector Contreras Acosta, female, and Julio C. Hernandez, male, both of lawful age, credible witnesses, was approved, and they all signed before me. (Sgd.) Manuel A. de Paredes. (Sgd.) Domingo Diaz Arosemena. (Sgd.) Julio C. Fernando. (Sgd.) Hector Contreras. (Sgd.) Alejandro Briceno, Notary Public No. 2.

This first copy is in accordance with the original and I issue it for Mr. Domingo Diaz on the 15th May, 1909. (Sgd.) Alejandro Briceno, Notary Public No. 2. (Seal). Registrar's Office: Panama, May 22, 1909. This first copy is recorded on page 93 to 99 of Book 1, Volume 3, under number 190. The Registrar, (Sgd.) Octaviano B. Perez. (Seal).

592 EXHIBIT "N".

No. 121—May 12, 1909.

Whereby Francisco Alvarado Arosemena Conveys to Domingo Diaz One-ninth Part of "Lo de Caceres."

In the City of Panama, Capital of the Province and of the Republic of the same name, on the 12 day of the month of May, 1909, before me, Alejandro Briceno, Notary Public No. 2, of the Circuit of Panama, personally appeared Mr. Francisco Alvarado Arosemena, male, of lawful age, domiciled in this city, known to me, and stated the following: Please enter in your protocol

of Public Instruments of this year a deed from which it will appear that I, Francisco Alvarado Arosemena, male, and of lawful age, and with the free administration of my property, give in real and perpetual sale to Mr. Domingo Diaz, represented by his General Attorney-in-fact Mr. Domingo Diaz Arosemena, for the sum of 2,500 dollars Panamanian currency, one-ninth (1/9) portion of the lands known as "Lo de Caceres". The said lands I acquired by purchase from Mr. Guillermo G. de Paredes by Public Deed No. 301 of December 9th, 1908, issued in this Notarial Office. The general boundaries of the said lands are as follows: On the east the estate of "La Carrasquilla"; on the west the lands of "Pan de Azucar" and "Mata Redonda"; on the north the lands of "Mata Redonda" and "Lucha Franco", and on the south the lands of Mr. Barnardo Arze Mata which formed part of the same estate, and the lands of "Hata Pintado". The estate referred to is situated in this district. The ninth portion of the estate described and which I hereby sell to Mr. Domingo Diaz, is the same which I purchased from Mr. Guillermo G. de Paredes as I have already stated. I acknowledge to have received from the Purchaser to my entire satisfaction the sum of 2,500 dollars Panamanian Silver which is the consideration of the estate sold

593 Mr. Domingo Diaz Arosemena, male, of lawage, born and domiciled in this city, known to me, stated: That in his character of general attorney-in-fact for Mr. Domingo Diaz, as is shown by the power-of-attorney which was issued to him in the Notary's Office No. 1 of this Circuit under No. 722, of the 28th of October, 1908, accepts in the name and representation of Mr. Domingo Diaz the transfer made in his favor by this instrument. The vendor declares that the land

which he now conveys is free from all encumbrances or mortgages and that in any case he will answer for eviction or ejectment. The registration tax was paid and the voucher is attached to the protocol along with the certificate of the fact that the land tax has been paid, so that the said vouchers should be inserted in any copy or copies of this instrument which may be issued. It was made known to the contracting parties that they must register the first copy of this instrument in the respective office within the term of sixty days from this date. This deed was read to the interested parties in the presence of the instrumental witnesses Mrs. Jose A. de Paredes, female, and Adolfo A. Jurtado, male, both of lawful age, domiciled in this city, of good credit, and the said deed was approved and they all signed before me. (Sgd.) Francisco Alvarado A. (Sgd.) Domingo Diaz A. (Sgd). J. A. Paredes. (Sgd.) A. A. Jurtado. (Sgd.) Alejandro Briceno, Notary Public No. 2.

Certificate and Voucher: This first copy is in accordance with the original and I issue it for Mr. Domingo Diaz in Panama on the 18th day of May, 1908. (Sgd.) Alejandro Briceno, Notary Public No. 2, (Seal). Office of the Registrar: Panama, May 22, 1909. This first copy is registered on page 108 to 112 of the book No. 1, Volume 3, under No. 194. The Registrar, (Sgd.) Octaviano B. Perez. (Seal).

594 EXHIBIT "O."

No. 133—May 19, 1909.

Whereby Dario Carrillo Conveys One-ninth Portion of the Lands of "Lo de Caceres" to Domingo Diaz."

In the City of Panama, Capital of the Province, and of the Republic of the same name, on the 19th of May, 1909, before me, Alejandro Briceno, Notary Public No. 2 of the Circuit of Panama, there appeared Mr. Dario Carrillo, male, of lawful age, domiciled in this city, known to me, and stated: Please enter in your protocol of Public Instrument of this year, a deed showing that I, Dario Carrillo, male, of lawful age, and with the free administration of my property, give in real and effectual sale to Mr. Domingo Diaz Arosemena, for the sum of 3,000 dollars Panamanian currency one-ninth (1/9) part of the lands of "Lo de Caceres." The lands referred to I obtained by purchase from Victoria P. de la Guardia in accordance with Public Instrument No. 238 of September 22nd, 1908, issued in this Notarial Office. The general boundaries of the property are on the east, "La Carrasquilla"; on the west, the lands of "Pan de Azucar" and "Mata Redonda"; on the north, the lands of "Mata Redonda"; and "Lucha Franco"; and on the south the lands of Bernardo Arze Mata, which formed part of the same estate and with the lands of "Hato Pintado." The estate referred to is situated in this district. I acknowledge to have received from the purchaser to my entire satisfaction the sum of 3,000 dollars Panama Silver which is the consideration of the sale.

Mr. Domingo Diaz Arosemena, male, of lawful age, born and domiciled in this city, known to me, who was present, stated that in his character of General Attorney-

in-fact for Mr. Domingo Diaz, as is shown by the power of attorney which he exhibits, with faculty to purchase convey, etc., and which was issued in the Notarial Office No. 1 of this Circuit under No. 722 of
595 October 28, 1908, accepts in the name and representation of Domingo Diaz the transfer made to him by this instrument and declares that he has delivered to the vendor the sum referred to subject to his agreement. The vendor declares that the land sold is free from encumbrances and mortgages, and that in any case he will answer for eviction or ejection. The registration tax was paid and the voucher is attached to the protocol along with the certificate referring to the land tax so that they may be inserted in any copy or copies of this Instrument that may be issued. It was made known to the contracting parties that the first copy of this instrument must be recorded in the respective office within sixty days from this date. This deed having been read to the interested parties in the presence of the instrumental witnesses Mrs. Jose A. Paredes, female, and Ramon G. de Alba, male, both of lawful age, domiciled in this city, credible witnesses, it was approved and they all signed before me. (Sgd.) Dario Carrillo E. (Sgd.) Domingo Diaz A. (Sgd). J. A. Paredes. (Sgd). Ramon G Alba. (Sgd.) Alejandro Briceno, Notary Public No. 2.

Certificate:

This first copy is in accordance with the original and I issue it for Mr. Domingo Diaz, in Panama, on the 19th of May, 1909. (Sgd.) Alejandro Briceno, Notary Public No. 2. (Seal). Registrar's Office. Panama, May 24, 1909. This first copy is registered on pages 112 to 116 of Book 1, Volume 2, under No. 195. The Registrar, (Sgd.) Octaviano B. Perez. (Seal).

596 EXHIBIT "P."

Number 237.

In the City of Panama, Capital of the Province and of the Republic of the same name, before me, Alejandro Briceno, Notary Public Number Two, of the Circuit of Panama, today on the 22nd day of the month of August, 1910, personally appeared Messrs. Ismael Garcia de Paredes, Elisa Garcia de Paredes, and Jose Maria Garcia de Paredes in his own name, and as attorney-in-fact for his brother Saul Garcia de Paredes and Mrs. Josefa Velarde, widow of Garcia de Paredes as legitimate heir of her deceased son Gustavo Garcia de Paredes and stated: That by this Public Instrument they make it known that they have given in real and effective sale to Mr. Domingo Diaz, represented in this contract by his attorney-in-fact Mr. Domingo Diaz Arosemena, one-fifth part each one of them of the lands they hold in joint and common ownership in the estate known as "Lo de Caceres" situated in Las Sabanas of this city, which the vendors obtained from their deceased father Mr. Jose Garcia de Paredes, the boundaries being as follows: From the small hill that is near the house of Harmodio Arosemena and near the road known as Cerrito de Las Yucas a straight line is drawn to the concrete bridge made by Adolfo Aleman on the point where this line traverses the coach road, and this is the starting point, thence a straight line is drawn to the well from which the family of Mr. Jose Garcia de Paredes used to be supplied with water, thence a straight line is drawn to the headwaters of a creek that empties itself into the Charco de los Penones in Rio Abajo, thence downstream as far as the creek that is beyond the banana trees purchased by Mr. Ramon Garcia de Paredes from Pedro Andres, thence upstream as far as the headwaters of the said creek, thence a

straight line as far as the fence of the sugar mill of Mr. Harmodio Arosemena and Mr. Baldomero Mendez, and then along said fence as far as the Cerrito de
597 Las Yucas which was the starting point. The transfer of the said lands has been made for the sum of $6,000.00 Panama silver, which they declare to have received from the Purchaser to their entire satisfaction that that is the true price. Mr. Domingo Diaz Arosemena, male, of lawful age, of this city, stated that in the name and in representation of his father Mr. Domingo Diaz of whom he is attorney-in-fact accepts this instrument and the transfer therein contained as well as the gift of any excess that there may be therein.

The Registration Tax was paid, etc.

This deed after having been read to the parties in the presence of the instrumental witnesses Messrs. Julian Sosa and Fernando Arango, it was approved and they all signed before me.

JOSEFA V. DE PAREDES.
J. G. DE PAREDES.
ISMAEL G. DE PAREDES.
ALIDA G. DE PAREDES.
SP. SAUL G. DE PAREDES.
J. G. DE PAREDES.
DOMINGO DIAZ A.
LYLIAN SOSA.
J. F. ARANGO.
ALEJANDRO BRICENO,
Notary Public Number Two.

Certificates, etc.:

This first copy is taken from the original and I issue it for Mr. Domingo Diaz on the 20th of September, 1910.

ALEJANDRO BRICENO,
Notary Public No. 2.

This first copy is recorded on pages 67 to 69 of Book 1, Volume 4, under number 344, Panama, September 30, 1910.

The Registrar,
(Seal) (Sgd.) ENRIQUE LUNA.

598 EXHIBIT "Q."

No. 135—May 19, 1909.

Whereby Catalina Lewis de Garcia de Paredes Conveys to Domingo Diaz One-ninth Part of "Lo de Caceres."

In the City of Panama, Capital of the Province and of the Republic of the same name, on the 19th day of the month of May, 1909, before me, Alejandro Briceno, Notary Public No. 2 of the Circuit of Panama, personally appeared Mrs. Catalina Lewis de Garcia de Paredes, a woman, of lawful age, widow, born and domiciled in this city, known to me, and said: "Please enter in protocol of Public Instruments of this year a deed whereby I, Catalina Lewis, widow of Garcia de Paredes, of lawful age, and with the free administration of my property give in real and perpetual sale to Mr. Domingo Diaz represented by his general attorney-in-fact Mr. Domingo Diaz Arosemena, for the sum of 2,000 pesos Panamanian currency, one-ninth (1/9) part of the lands known as "Lo de Caceres," the general boundaries of the said estate of "Lo de Caceres" are as follows: On the east the estate known as "La Carrasquilla"; on the west, the lands of "Pan de Azucar" and "Mata Redonda"; on the north the lands of "Mata Redonda" and "Lucha Franco," and on the south the lands of Mr. Bernardo Arze Mata which formed part of the same

estate, and also the lands of "Hata Pintado." The estate is situated in this district. The ninth part of the estate of "Lo de Caceres" which I bought before the First Circuit Judge of Panama in due form, I acknowledge to have received from the purchaser to my entire satisfaction the 2,000 dollars Panama silver price of the thing sold, and I recognize Mr. Domingo Diaz as the only owner of the said ninth portion of the said lands which I have sold, and if they be worth more, I give further donation of the excess in favor of the purchaser.

599 Mr. Domingo Diaz Arosemena, male, of lawful age, born and domiciled in this city, known to me, stated: That in his character of general attorney-in-fact for Domingo Diaz, as is shown by the power-of-attorney that he submits, with the faculty to purchase, sell, etc., and which was issued in the Notary's Office No. 1 of this Circuit under number 722 dated October 28th, 1908, he accepts in the name and in representation of Domingo Diaz the transfer made to him by this instrument, and the gift of the excess, if there should be any, in the same way as is described in this instrument, and declares that he has handed over to the vendor the sum referred to, which is the consideration of this agreement. The vendor declares that the land hereby sold is free from all encumbrances or mortgages, and that in accordance with the law shall answer for eviction or ejectment. The registration tax was paid as is shown by the voucher attached to the protocol and also with the certificate of the payment of the land tax so that said voucher may be inserted in any copy or copies that may be issued of this agreement. It was made known to the contracting parties that they must register the first copy of this Instrument at the proper office within sixty days from this date. This Deed having been read to the parties in the presence of the instrumental wit-

nesses Mrs. Alberto B. de Obarrio, female, and Leonicio Tascon, male, both of lawful age, domiciled in this city, known to me, of good credit, it was approved, and they all signed before me. (Sgd.) Catalina L. de Paredes. (Sgd.) Domingo Diaz Arosemena. (Sgd.) A. B. de Obarrio. (Sgd.) Leonicio Tascon. (Sgd.) Alejandro Briceno, Notary Public No. 2.

Certificate: The undersigned, Notary Public No. 2 of the Circuit of Panama, certifies that in the protocol of this Notarial Office there appears Deed No. 190 containing the following certificates: Panama, August 8, 1908. The Treasurer General of the Republic certifies that the estate known as "Lo de Caceres" does not appear in the Register of Land Tax. (Sgd.) Carlos Ycaza. Panama, May 19, 1908. (Sgd.) Alejandro Briceno. (Seal). Republic of Panama, Treasurer General's Office, Volume 11. I certify that on page 154 of the book of the registration of taxes under No. 642, there is a following entry: Panama, May 19, 1909. Mr. Alejandro Briceno has paid the sum of two Balboas for the registration tax of a deed whereby Mrs. Catalina Lewis de Paredes conveys to Mr. Domingo Diaz, one-ninth portion of the estates of "Lo de Caceres" for 1,000 Balboas. Per Treasurer General of the Republic, the Cashier. (Sgd.) J. M. Alzamora. (Seal.) This first copy is in accordance with the original which I issue for Mr. Domingo Diaz in Panama, on the 19th day of the month of May, 1909. (Sgd.) Alejandro Briceno, Notary Public No. 2. (Seal.) Office of the Registrar. Panama, May 24th, 1909. This first copy is registered on page 116 to 120 of book one, volume three, under number 196.

600

The Registrar, (Sgd.) OCTAVIANO B. PEREZ. (Seal.)

601 EXHIBIT "R."

(Part of Garay-Aleman Record.)

United States of America, Canal Zone.

In the Circuit Court of the 1st Judicial Circuit.

Narciso Garay, attorney in fact for the Hurtado family, Plaintiffs,

v. No. 120.

Aldolfo Aleman, et al, Defendants.

OPINION.

In this case a survey was made with a great deal of care, and the land was ocularly inspected on three different occasions.

The titles are found to be in a very bad condition, and it required a good deal of trouble to locate certain places called for in the titles, and there was a diversity of opinion with regard to the same. The main trouble was to establish a creek, the headwaters of which arose in Pan de Azucar and emptied into the Hondo River in the neighborhood of the same. There is but one creek, however, that will fill the description with any degree of accuracy, and this was located by the surveyor and found to be technically correct.

However, the question of prescription has played such a part in the law suit that the technical line running from the mouth of that river has been changed by the Court to meet the proof on prescription. The proper line, as between the estate of Pan de Azucar and defendant Aleman, begins at a point in the Mata Redonda road opposite two small hills, shown on the map as "Los

Cerritos," thence goes in a straight line, crossing the road, to the headwaters of the creek which runs from Pan de Azucar hill to Rio Hondo; thence following said creek along its general easterly and westerly course until reaching the point whence a fence runs direct to the Rio Hondo. That is to say, that the line is placed on the fence erected by Aleman as the boundary
602 line between the parties.

The defendant Aleman is entitled to all the land in controversy north of that boundary, and the plaintiffs to the land south of that boundary down to the road leading from the bridge at San Jose along the road to the Vista Hermosa line, a full description of which is given in the Order herewith.

The deed of 1736, under which defendant Aleman claims, is older than the deed under which the plaintiffs claim, but I find, as a matter of fact, that the defendant only claims to the fence above alluded to, and that the plaintiffs had adverse possession of all the land up to said fence.

I find furthermore that there was no necessity to have joined in this action Pedro Arias, Manuel M. Ycaza B., and Domingo Diaz A., and that, therefore, any expense of the survey, which is their proportionate part of the same, shall be borne by the plaintiffs herein.

I find also that the defendants Arosemena and the defendant Patterson had no surveying done, and, therefore, there is no cost either one way or the other as to them.

This makes the expense of the survey lie between, three-fifths to be borne by the plaintiffs on account of the three men above-named, one-fifth on their own account, and one-fifth by defendant Aleman.

It is further found, as a matter of fact, that the expense of the survey and the work necessarily done

justified the bill presented by Mr. Johnson of $1,000.00, and the same is ratified and confirmed and ordered to be paid in the proportion above set forth; that is to say, the plaintiffs four-fifths, and defendant Aleman one-fifth. Outside of the survey each party will bear their respective costs.

It is further found, as a matter of fact, that the road leading from the San Jose bridge and thru to
603 Panama, as well as the road leading thru the estate of Pan de Azucar and the land of defendant Aleman, are public highways.

H. A. GUDGER,
Judge.

Certificate.

I, E. M. Goolsby, Clerk of the United States District Court of the Canal Zone and lawful custodian of the records of the former Circuit Courts of the Canal Zone, do hereby certify that the above and foregoing writing of three pages is a true and correct copy of an Opinion filed in the case stated in the Circuit Court of the First Judicial Circuit of the Canal Zone and filed in said case and Court on the 17th day of May, A. D. 1913.

In witness whereof, I have hereunto set my hand and affixed my official seal at Ancon in the Canal Zone, this first day of April, 1921.

E. M. GOOLSBY,
(Seal) Clerk of the Court.

17-5-13.

604 AMENDED ANSWER.

United States of America, Canal Zone.

In the Circuit Court in and for the First Judicial Circuit, C. Z.

Narcisco Garay, attorney in fact for Jose Marcelino Hurtado, Josefa Dolores Hurtado, Manuela Hurtado de Santa Maria, Amalia Hurtado de Bidwell and the Countess Henri des Cordes, Plaintiffs,

vs. Civil No. 120.

Carlos Ycaza Arosemena, Eduardo Ycaza, Dolores Aroseneba, Hercilia Arosemena, Ernesto Arosemena, Carlos C. Arosemena, Florencio Arosemena, Delia Arosemena de Uribe, G. Patterson, Adolfo Aleman, Domingo Diaz A., Pedro Arias and Manuel M. Ycaza, Defendants.

G. Patterson, one of the defendants above named, for answer to the complaint of the plaintiffs herein states:

1. That the estate of Pan de Azucar does not in any way bound with or touch his real property known as "Mata Redonda" situated within the District of Ancon, Canal Zone, which is bounded as follows:

"From the "Pena Hueca" of this name, "Mata Redonda" a straight line to the Cerro del Algarrobo and thence to the Cerro del Vidrio and from there to the Cerro Gordo, turning to the headwaters of the Cardenas River down stream to its junction with (or to the mouth of) the quebrada Palangana and up the waters of this stream to the quebrada Platanar (Banana Grove) thence up that stream to its source, and from there a straight line to the "Pena Hueca" (Hollow Rock),"

as is more fully shown in the exhibits hereunto annexed as integral parts of this answer.

2. That the above boundaries are definitely ascertained and therefore no judicial determination thereof is necessary.

3. That there is no confusion in the boundaries between Pan de Azucar and Mata Redonda and hence in determining same there is no need of a survey by a competent engineer.

4. That by reason of the foregoing allegations no ocular inspection is required in so far as it refers to the boundary line of Mata Redonda.

Wherefore this defendant prays the Court that the plaintiffs take nothing by their complaint in so far as it refers to the boundary line of Mata Redonda and that he recover his costs.

(Sgd.) HARMODIO ARIAS,
Attorney for defendant G. Patterson.

G. Patterson, of lawful age, being first duly sworn,
on oath states that he read the above and fore-
605 going complaint and is familiar with the contents thereof and that the facts as therein stated are true to his knowledge and belief.

(Sgd.) G. PATTERSON.

Subscribed and sworn to before me this 14th day of March, 1913.

(Sgd.) WALTER EMERY,
Clerk Circuit Court.

(Note.—Here follows the "Memorandum," including:

Abstract and partial translation of the Spanish Deed by which Jose Zayas Batista conveys to J. Gabriel Duque the remaining half of Mata Redonda Estate. No. 235.

Abstract and partial translation of the Spanish Deed by which Jose Gabriel Duque conveys to Manuel Espinosa Batista a one-half interest in Mata Redonda Estate. No. 179.

Abstract and translation of the Spanish Document in which J. Gabriel Duque and Manuel Espinosa B. correct the boundaries of the Estate of Mata Redonda. No. 58.)

606 EXHIBIT "B-2."

Number 199—By which the Succession suit of Mr. Ramon Garcia de Paredes is protocolized. Panama, Nov. 13. 1894.

In the city of Panama, capital of the province and of the Department of the same name of the Republic of Colombia, on the 13 day of the month of November of the year, 1894, before me, Manuel Azcarate, Notary Public No. 2 of the Circuit of Panama, in actual discharge of the duties of the office, and the witnesses, Daniel Salcedo and Artura E. Paniza, personally appeared Dr. Belisario Porras, of lawful age, attorney, a resident of this Circuit, and known to me, and stated: That he was presenting, as in fact he did present, for protocolization in this notarial office, the file containing the succession suit of the late Don Ramon Garcia de Paredes; and after having presented to me the certificate of the Administrator of the Treasury of this Department, showing the payment of the respective registry fee, I proceed to attach same to my current protocol, the same taking up sixty-seven sheets, including those on which these proceedings are begun and con-

cluded. The operation being accomplished, the act was declared terminated, which is signed before said Dr. Porras, and together with the witnesses aforementioned, before me, to which I certify, who are of lawful age and residents of this city and competent, in my judgment, to witness this act. B. Porras. Arturo E. Paniza. Daniel Salcedo. Manuel Azcarate, Notary Public No. Two."

"I, Francisco Marquez, Notary Public No. 1 of the Circuit of Panama, in the Republic of Colombia, certify: That at folios five, fifteen, over, 26 and 27 of the book of the Civil Registry of births corresponding to the years from 1872 to 1880, there exist the birth certificates of the children now hereinunder given, legitimate children of Don Ramon Garcia de Paredes and of Mrs. Catalina Lewis de Paredes, their paternal grandparents being Mr. Jose Garcia de Paredes and Mrs. Dolores de la Barrera de Garcia de Paredes, and the maternal grandparents, Mr. Luis Lewis and Mrs. Ramona Herrera de Lewis. Catalina Maria del Carmen, who was born the 11th of January of the year 1874. Guillermo Jose, who was born the 13th day of May of the year 1875. Victoria, who was born the 28th of October, 1876. And on the verbal request of Ramon Garcia de Paredes Lewis I issue these presents on one sheet of legal cap, in Panama, the 28th of July, 1892. Francisco Marquez, Notary Number One. Fees: Art. 380 of the C. C. $0.20 (twenty cents.) There appears a seal. Marquez. A true copy." "The Clerk of Civil Court One issues this copy on the order of the Judge in order to attach it at the corresponding place in the proceedings which figure in the original document which I remove and deliver in one sheet to the petitioner, Mrs. Catalina L. de Paredes, this the 16 day of May, 1894. Received Catalina L. de Paredes."

607

"Court Two of the Circuit in Civil Matters. Panama, February 16, 1893. In accordance with the opinion of the Government attorney, and having at hand the documents presented by Mrs. Catalina Lewis de Paredes, it is ordered:—First: That there be declared open the intestate succession of Mr. Ramon Garcia de Paredes from the fifteen of January of one thousand eight hundred and eighty-nine, on which day he died. Second: Let there be declared as legitimate children of Mr. Garcia de Paredes, Everardo Enrique de las Mercedes, Otilda Maria del Carmen, Ramon Enrique, Manuel Alberto de las Mercedes, Alberta Jose, Cristina de las Mercedes, Catalina Maria del Carmen, Guillermo Jose and Victoria. Third: That there be declared as heirs of the succession the legitimate children of the intestate Ramon Garcia de Paredes without prejudice to third parties. Fourth: The legitimate mother, Mrs. Catalina Lewis de Paredes, of the minors Catalina Maria del Carmen, Guillermo Jose and Victoria, is declared the tutoress and guardian of said minors. Let there be called by edict those who may consider they have a right to said estate, and let there be presented the last will or wills which the decedent, Ramon Garcia de Paredes, may have left, as also the curator, in case there should be any, shall appear at this Court. Let this order be published three times in the official gazette as provided by law in order that same may come to the knowledge of all interested parties. Ramon Valdes L. Juan Soto A. I notified Mrs. Catalina L. de Paredes this the 20 of February, 1893, at 4:30 p. m., of the foregoing order. Catalina L. de Paredes. Soto A. * * * And Mr. Everardo G. de Paredes this the 20 of February, 1893, at 4 p. m. E. G. Paredes. Soto. And Mrs. Otilda Maria Garcia de Paredes this the 20 of February, 1893. Otilda G. de Paredes de Arosemena. Soto. And Mr. Ramon

Garcia de Paredes, Jr., this the 20 of February,
608 1893. R. G. de Paredes Lewis. Soto. And Mr. Manuel G. de Paredes this the 23 of February, 1893, at 10 a. m. M. G. de Paredes. Soto. And Mr. Alberto I. Garcia de Paredes this the 20 of February, 1893, at 4:30 p. m. A. G. de Paredes. Soto. And Mrs. Cristina G. de Paredes this the 20 of February, 1893, at 4:30 p. m. Cristina G. de Paredes de Roux. Ant. de Roux. Soto. And Catalina Maria Garcia de Paredes this the 20 of February, 1893, at 4:30 p. m. Catalina Maria Garcia de Paredes. Soto. And Guillermo Garcia de Paredes this the 20 of February, 1893, at 4:30 p. m. For my minor son Guillermo, absent. Catalina L. de Paredes. Soto. And Miss Victoria G. Paredes this the 20 of February, 1893, at 4:30 p. m. Victoria G. de Paredes. Soto."

"In Panama, the eighth of February, 1894, the Judge and the undersigned Clerk, proceeded to the dwelling of Mrs. Catalina Lewis de Paredes for the purpose of beginning the formation of the judicial inventories decreed by Order of the first of this month. The Judge required and received from said lady the lawful oath to present all the property belonging to the estate of Ramon G. de Paredes, and thereupon the following, which she presented, were inventoried: A three story house, situate in Paez Street (formerly San Juan de Dios street), and which house is of frame construction with the exception of the rear part on the east (Culata del Este), which is of masonry construction, with a tile roof, the dimensions thereof being as follows: frontage 12 meters and 40 centimeters; and depth, 26 meters, 50 centimeters. It is bounded on the north by the aforesaid Paez street; on the south by a house belonging to Julio Arias; on the east by another house belonging to

Mrs. Teresa Vera de Torres; and on the west, by another house belonging to the heirs of Dr. Carlos Ycaza. One pair consoles mahogany marble and the two mirrors pertaining thereto. One round walnut and marble table. One dozen chairs, four rockers and one walnut chest. Four corner stands, two pictures and two hats; one writing desk with a library of one hundred volumes. One bed, one bureau with mirror, and two walnut wardrobes. One wash-stand. One night commode, one videl, one hat rack, two camphor trunks and one extension table, one side-board, one dozen chairs, one case table service, two shelves. One commode, one wardrobe, one wash-stand and two pictures. One estate called "Lo de Caceres" situate in the outskirts of this city,
609 the boundaries of which are as follows: On the east, the estate called "Carrasquilla"; on the west, the estates of "Pan de Azucar" and "Mataredonda"; on the north, the estates of "Mataredonda" and "Lucha Franco"; and on the south by land sold to Bernardo Arze Mata which formed part of the same estate and by lands of 'Hato Pintado." On the same estate two houses, one a two story house, of frame construction, and a corrugated iron roof, and the other a one story frame house with thatched roof and an attic. Three stables, a coach-house, and a calf shed. Sixteen head of cattle. Thus the act and these proceeds were terminated, which are signed by those intervening in same. Carlos Borbua. Catalina L. de Paredes. E. G. de Paredes. R. G. de Paredes Lewis. Nicanor Villalaz, Clerk."

"To Judge One of the Circuit.—In order that you may decree the actual possession in favor of the heirs of Ramon Garcia de Paredes, possession which I requested some time ago, I give to you a statement of the

boundaries of the estate "La de Caceres," the only property which we had with limits definitely set forth, succinctly. They are as follows round-about beginning: 'On the north, from the summit of the hill Mocambo, straight line or a straight line to the Mataredonda, well known in the vicinity; from this Mataredonda to the headwaters of the creek Platanar, and by this creek, down stream, to its confluence with the Palangana creek, and following the natural course of last mentioned creek until coming paralled with the royal crossing (old) of river Hondo at the place where the crossing is made to go from this city to Mata Redonda, the estate of this name, and following in a straight line to the said crossing, continuing thereafter along the royal road of Mata Redonda aforementioned, in the direction toward this city until facing the headwaters of a muddy stream situated at the south of the hill of Pan de Azucar. From the headwaters of the said stream, which are located where there are some trunks of old bushes and several small wells which form the source of this stream, (which stream runs from south to north, and empties in the river Matasnillo), down stream, from the headwaters thereof, to its outlet in the river Matasnillo, and along this river, up stream, to meeting the line going from the summit of the hill of Barro Colorado to the summit of the Gallinero hill. This straight or visual line is drawn from the summit or highest part of the
610 hill called Barro Colorado, which hill is in sight from the old house of the estate Lo de Caceres, to the summit or highest part of the Gallinero hill, in the lands of "La Loceria," which hill is located by drawing the said visual line to the slopes of "La Pava" hill or "Fruto de Pava," and this hill to the slope of "Ancon" hill. From the summit of the Barro Colorado hill another straight or visual line is drawn

to the highest part of the small hill of Bruno Cerda, which hill is in the vicinity of a stream, (which I believe is called "Pina Pina"), which serves as a bath for Carrasquilla, and from the summit of said small hill to the headwaters of the said stream which empties in the vicinity of the bridge of the slaughterhouse of Old Panama. From the source of this stream another straight line is drawn to the summit of Sonsonate hill, and from this hill to the stream "Tesorera," and thence to Mocambo, the starting point." These boundaries have been taken from the deeds which secure the ownership for their owners of the estate "Lo de Caceres," Pan de Azucar, La Loceria, Mata Redonda, La Carrasquilla, etc., etc. Accept the same and decree, in conclusion, the actual possession requested. It was not, in order to obtain the same, an indispensable requisite to present to you the detailed boundaries which I now give you, because this is always a matter of another suit, which is called a delimitation suit. I satisfy, however, my requirement. Panama, May 5, 1894. B. Porras."

"Court One of the Civil Circuit. Panama, May 10, 1894. The inventories of the property of the estate of Ramon Garcia de Paredes having been approved, the possession of said property undivided having been conferred upon the heirs of said gentleman, who are, Mrs. Catalina L. de Paredes, surviving spouse, and her children Everardo Enrique de las Mercedes, Otilde Maria del Carmen, Ramon Enrique, Manuel Alberto de las Mercedes, Alberto Jose, Cristina de las Mercedes, Catalina Maria del Carmen, Guillermo Jose and Victoria; request having been made by said heirs that they be given the actual possession of the hereditary property,—the undersigned, Judge One of the Civil Circuit, administering justice in the name of the Republic of Colombia and by

authority of the law, gives to the said heirs the actual and undivided possession of the property of the estate of Mr. R. G. de Paredes, and which property is found detailed in the judicial inventories signed the 8th day of February of this year, and which have been
611 duly protocolized before Notary No. Two of this Notarial Circuit. Let notice issue. Villalaz. Antepra, Clerk. On the 10th of May, 1894, I notified Dr. Belisario Porras of the foregoing decree. Porras. Antepara. And Everardo Garcia de Paredes Lewis on the same date. E. G. de Paredes. Antepara. And Otilda Paredes de Arosemena on same date. Otilda P. de Arosemena. Alfredo Arosemena. Antepra. And Cristina Paredes de Roux. Cristina G. de P. de Roux. Ant. de Roux. Antepara. And Ramon G. de Paredes Lewis on same date. R. G. de Paredes Lewis. Antepara. And Manuel G. de Paredes on same date. M. G. de Paredes. Antepara. And Alberto G. de Paredes on same date. A. G. de Paredes. Antepara. Registry of Public and Private Instruments of the Province. Panama, May 19, 1894. On this same date, on pages 31 to 32 of the Registry Book of Mortuary Causes, there is recorded the decree of the 16th instant and to which decree the notifications immediately preceding this note correspond. The Registrar. Jose Ant. Romero. To Judge One of the Circuit. In accordance with section 12 of Art. 2652 of the Civil Code with relation to the second section of Art. 759 of the same Code, the judicial decree giving the actual possession of the inheritance must be recorded. In the matter of the estate of Ramon Garcia de Paredes you have already given a decree, and I now come to request that you will kindly order compliance with the said formality, advising the Registrar to include in the respective Registry note the boundaries I gave of the land of "Lo de Caceres," and

which were demanded of me by your predecessor in order to give said possession. Panama, May 12, 1894. Porras. The foregoing memorial has been presented to me on the day of the date thereof. Antepara. Court One of the Civil Circuit. Panama, May 15, 1894. Transmit this file to the Registrar of Public and Private Instruments in order that he may make the registration requested in the foregoing petition, for account of the petitioner. Let notice issue. Villalaz. Antepara. I hereby certify: That in order to notify the interested parties of the foregoing order I have this 16th day of May, 1894, at 10 a. m., posted an edict. Antepara. I notified Everardo G. de Paredes this the 16th day of May, 1894. E. G. de Paredes. Antepara. And Otilda Paredes de Arosemena on the same date. Otilda P. de Arosemena. Alfredo Arosemena. Antepara. And Cristina Paredes de Roux on the same date. Cristina G. de P. de Roux. Ant. de Roux. Antepra. And
612 Ramon Garcia de Paredes Lewis on the same date. R. G. de Paredes Lewis. Antepara. And Manuel G. de Paredes on the same date. M. G. de Paredes. Antepara. On the same date 16th of May) I notified Belisario Porras of the foregoing order. Porras. Antepara. On the same date I notified Alberto G. de Paredes. A. G. de Paredes. Antepara. (Here appears the edict notifying the interested parties of the order.) * * * "Republic of Colombia, Department of Panama. General Administration of the Treasury of the Department. I hereby certify: That at folio 293 of the collection book of Registry Fees, and under the number 4729 there appears the following entry. Panama, May 18, 1894. Dr. Belisario Porras paid two pesos as the registry fee of the Judicial Decree bearing date the 10th of May, 1894, of the actual and undivided possession of the property of the estate of Ramon Garcia de Paredes

to his heirs. The General Administrator of the Treasury of the Department. Jose G. de Paredes."

This copy, which I issue on five sheets of legal cap this the 19th day of April, 1921, agrees with the original thereof.

Sgd. SAMUEL BOYD,
Notary Public No. 2.
(Stamp seal) (Fee stamps)

Certificate No. 26 of 1921.

Alfredo A. Ayala, Substitute Governor of the Province of Panama, certifies: that the foregoing signature reading "Samuel Boyd" is the true signature of Notary Public No. Two of this Circuit, in the lawful discharge of his duties.

Done in the office of the Governor of the Province of Panama on the 19th day of the month of April, 1921.

Sgd. ALFREDO A. AYALA,
Chief Official of the office of Governor, in charge of the Secretary's office.

(Stamp seal)

Sgd. J. A. DUTARY.

Office of the Governor of the Province. Recorded at folio 148, Book of Certificates No. 10. Panama, April 19, 1921. Sgd. Dutary.

613 Leovigildo Gonzalez, Subsecretary of Government and Justice, certifies: that the two foregoing signatures, the first reading "Alfredo A. Ayala," and the second reading "J. A. Dutary," are in their order the true signatures of the Secretary of the Government of the Province in charge of the office, and Chief Official in charge of the Secretary's office of the Government, which officials are in the lawful discharge of their duties.

Done in the city of Panama the 19th day of the month of April, 1921.

Sgd. LEO GONZALEZ.

(Stamp seal.)

The undersigned, Sub-secretary of Foreign Affairs, certifies: that the foregoing signature reading, "Leo Gonzalez" is the true signature of the Sub-secretary of Government and Justice.

Done in Panama April 19, 1921.

Sgd. JULIO LAFFARGUE.

(Stamp seal)

Balboa Heights, Canal Zone, Isthmus of Panama.

I, Jno. H. Smith, Acting Executive Secretary for The Panama Canal, in charge of the Seal of the Government of the Canal Zone, certify that Julio Laffargue is, and was on the 19th day of April, A. D. 1921, the duly appointed Secretary of Foreign Relations for the Government of the Republic of Panama, and that his signature as hereinabove written is true and genuine.

Witness my hand and the seal of the Government of the Canal Zone this 19th day of April, A. D. 1921.

Sgd. JNO. H. SMITH.

(Seal)

614 EXHIBIT "C."

Certificate No. 21.

Martin Almanza Caballero, Subdirector of the National Archives, Certifies: That in the file initiated in Court One of the Circuit of Panama in the month of November, 1894, whereby the voluntary sale of the estate of Lo de Caceres and the establishment "El Al-

garrobo," belonging to the heirs of Mr. Ramon Garcia de Paredes, was effected, the record of the sale referred to is found on sheets 20 to 23, reading as follows:

In the City of Panama, on the twenty-seventh day of the month of April, eighteen hundred and ninety-five, it being the day and hour set for carrying out the public sale of the property that has been asked to be sold at public auction by the heirs of Don Ramon Garcia de Paredes, the undersigned, Secretary of the First Judicial Circuit of Panama, proceeded to give the necessary calls provided for by article 211 of Law 105 of 1890, in the following manner:

"Whoever wishes to make an offer in the public sale that is going to take place today, let him appear and his offer shall be admitted provided that he covers the sum of Six Thousand Three Hundred Pesos ($6,300.00) which is the total amount of the valuation, inasmuch as it is a voluntary sale, and let him deposit in advance the respective five per cent (5%) of the said valuation, for the purpose of guaranteeing the obligations imposed by the law on the purchaser."

The property that is going to be sold is as follows:

The lands and houses of the Estate known as "Lo de Caceres" and the establishment of "El Algarrobo" therein contained which is situated in the jurisdic-
615 tion of this district, in the place known as "Las Sabanas" and is bounded by "Mata Redonda," "Pan de Azucar," the lands of the "Club," "Hato Pintado," "La Carrasquilla," "La Concepcion" and "Lucha Franco," the boundaries thereof in detail, are as follows: A straight line from Mocambo to the spot called Mata Redonda, thence to the headwaters of the stream of the Platanar, and along the latter down stream, to its confluence with the stream Palangana, and follow-

ing the natural course of this last mentioned stream until reaching a point parallel with the old royal pass or crossing of Rio Hondo at the place used for crossing in order to go from this city to the estate of Mata Redonda, and following in a straight line to the said pass it continues along the royal road of Mata Redonda aforementioned up to a stream or ditch in the meadows and which runs to north; said stream comprises a series of hills, with the hill of Pan de Azucar on the one and the other bank thereof until flowing out into the Sabanas. Continuing up this stream to some bushes where there are some wells, the source thereof, and from which point the source of a muddy ditch which empties into the Mataznillo is sought, continuing therefrom and uniting its waters in the Mataznillo with those of another stream flowing in a little further down, the meadows of the Gallinero are thereby closed, and which lay between these streams. Of those streams the one which is on the north side is the boundary of the lands of "Lo de Caceres" up to its juncture with the river Mataznillo; and then along the Mataznillo, up stream, until striking the imaginary line running to the summit of the hill of Gallinero. This straight or visual line is drawn from the summit or highest part of the hill of Barro Colorado, which hill is in view from the house of the Estate of "Lo de Caceres," to the summit of the highest part of the hill of the Gallinero in the lands of the Loceria which hill can be located by drawing the said visual line to the slope or lowest part of the hill "La Pava,," and from this hill to the slopes of Ancon Hill. From the summit
616 of the hill of Barro Colorado another straight or visual line is drawn to the highest part of the small hill of "Bruno Cerda," which hill is in the vicinity of the headwaters of a stream serving as a bathing place for the estate "Carrasquilla," and which emp-

ties within the vicinity of the front part of the slaughter house of Old Panama. From the headwaters of this stream, a straight line to the summit of the Sonsonate Hill, from here towards the stream "Tesorera" and along this stream to "Mocambo," the starting point.

It is excepted from this sale the land transferred to Mr. Jose Garcia de Paredes, by virtue of a transaction made before the First Circuit Court Judge, having the following boundaries: From the hill that is found near the house of Mr. Harmodio Arosemena, and close to the road above mentioned called "Cerrito de las Yucas," a line is drawn to the concrete bridge made by Mr. Adolfo Aleman at the point where this line cuts the wagon road below, which is the starting point. Therefrom a straight line is drawn to the well now in use for taking drinking water by Mr. Jose Garcia de Paredes; therefrom a straight line is drawn to the corner of "La Viuda" and therefrom a straight line as far as the headwaters of a creek that empties itself "Los Penones" in Rio Abajo; therefrom down stream as far as "Rio Abajo; therefrom down stream as far as the creek that is above certain banana plants purchased by Mr. Ramon Garcia de Paredes from Pedro Andrea; therefrom up stream as far as the headwaters of the creek; therefrom a straight line as far as the fence of Mr. Baldomero Mendez and Harmodio Arosemena, (Eugenio) and continuing along the said fence as far as the hills known as "Las Yucas"; therefrom to the starting point. The accessories of the estate are: One house having two floors, of wood and zinc; another house of one floor made of wood and thatch roof; besides three stables; and another stable for cattle. At this point Mr. Ramon Garcia de Paredes appeared, as Attorney-in-fact for his mother Mrs. Catalina Lewis de Paredes, in accordance with the power of

attorney, which is attached to the proceedings
617 and made an offer for the sum of Six Thousand Three Hundred pesos ($6,300.00) that is to say, the total of the valuation and inasmuch as this was admitted because he had deposited the sum of Three Hundred Fifteen ($315.00) as the five per cent. (5%) of the valuation, it was announced to the public in the manner provided by law. This offer was announced to the public several times without it being in any way increased, and, therefore, inasmuch as it is only ten minutes to four, the Judge decided that it should be announced that the public sale was about to close, which was done for the first, second, and third time, and as nobody appeared improving the offer made by Mr. Ramon Garcia de Paredes, the First Judge of the Judicial Circuit of Panama, declared the following, administering justice in the name of the Republic of Colombia and by virtue of the law: Let it be adjudicated to Mrs. Catalina Lewis de Paredes in accordance with the offer made by her son Mr. Ramon Garcia de Paredes, the property mentioned and its accessories for the sum of Six Thousand Three Hundred Pesos ($6,300.00), and with the boundaries above described being the only offer made in the public sale just now carried out. It is made known that the sale is carried out in cash and that Mr. Ramon Garcia de Paredes received the amount which he deposited. In testimony whereof, these proceedings are signed by the Judge and Mr. Ramon Garcia de Paredes as attorney-in-fact for Mrs. Catalina Lewis de Paredes, and by the Secretary. The Judge of the First Judicial Circuit, Nicanor Villalaz. The Purchaser, Ramon G. de Paredes. The Secretary, Horacio F. Alfaro.

The original is returned to the interested parties. The Registrar—Jose Antonio Romero. A true copy. Pana-

ma, June 7th, 1913. Enrique J. Luna. (Seal of the Registrar's Office.)

618 PLAINTIFFS EXHIBIT "C-1."

Translation.

Certificate No. 22.

Martin Almanza Caballero, Sub-Director of the National Archives, Certifies:

That in the ordinary action brought by Jose G. de Paredes against the estate of Ramon Garcia de Paredes, initiated in the Civil Circuit Court of Panama in the year 1894, there are on file the following documents reading as follows:—"No. 1. In Panama, March 31, 1894, at 10 a. m., this being the day and hour fixed for the holding of the amicable conference provided in Art. 9, Act 105, of 1890, in the ordinary civil action brought by Jose Garcia de Paredes against Catalina L. de Garcia de Paredes in her character as surviving spouse of Ramon Garcia de Paredes, and in her capacity as tutoress and guardian of her minor children, Catalina Maria del Carmen, Guillermo Jose and Victoria Garcia de Paredes, and Everardo, Ramon, Otilda, Cristina, Alberto and Manuel Garcia de Paredes, for the purpose of obtaining the exclusion of the estate "Lo de Caceres" from the inventory of the estate of Ramon Garcia de Paredes, and there being present at the Court house of the First Civil Circuit Court the actor, Jose Garcia de Paredes, Dr. Belisario Porras, attorney of Catalina L. de Garcia de Paredes, Otilda G. de Paredes de Arosemena, Cristina G. de Paredes de Roux, and Everardo,

Ramon, Alberto and Manuel G. de Paredes, opponents, and Manuel Antonio Herrera Aleman, a resident of notorious probity and influence, named as a witness of the conference for the purpose of intervening in the matter in order to obtain an agreement between the parties,—the Judge declared the conference open, beginning the same by the reading of the complaint, which reading was done by the undersigned Clerk. This being done, the Judge notified the actor that he might speak, and the said actor stated that he ratified the contents of the complaint. The opponents being then granted the floor, they stated that witness, Mr. Herrera A., would propose a basis of settlement, and as a matter of fact said gentleman made the following proposition:—1st. Catalina L. G. de Paredes, in her own name, as surviving spouse of Ramon Garcia de Paredes, and in her capacity as tutoress and guardian of her minor children, Catalina Maria del Carmen, Guillermo Jose and Victoria, by authorization of the Judge to settle, and Everardo Enrique de las Mercedes, Ramon Enrique, Manuel Alberto de las Mercedes, Alberto Jose, Otilda Maria del Carmen and Cristina Maria de las Mercedes, the two last mentioned duly authorized by their respective husbands, Alfredo Arosemena and Antonio de Roux, grant in perpetuity to Jose Garcia de Paredes a piece of land,

619 together with the appurtenances thereunto appertaining, in the estate "Lo de Caceres," under these boundaries: From the little hill adjoining the house of Harmodio Arosemena and the upper road called "Cerrito de las Yucas," a line is drawn to the masonry bridge built by Adolfo Aleman at the point where this line intersects the lower carriage road, is the starting point; thence a straight line is drawn to the ford where Jose Garcia de Paredes at present gets his drinking water; thence in a straight line to the

"Rincon de la Viuda"; thence a line to striking the headwaters of the stream which empties in the "Charco de los Penones" ("Pool of the Rocks") in "Rio Abajo" (River Abajo); thence, down stream, to the river Abajo; thence, down stream, to the small stream located at the upper part to the stalks (tallos) bought by Ramon Garcia de Paredes from Pedro Andrea; thence, up-stream, to the source of the stream; thence in a straight line to striking the fence of Baldomero Mendez and Harmodio Arosemena, (sugar plantation), and extending along the same to the "Cerrito de las Yucas" (little hill of the Yucas); thence to the starting point. 2nd. That they recognize in Jose Garcia de Paredes the right to the half of the pasture land planted by him, with the respecting fences belonging thereto, without the obligation of paying ground rents for the same, without the land. 3rd. That they give to the said Jose G. de Paredes a legal deed of the sale made by Catalina L. G. de Paredes to Josefa Avelarde G. de Paredes of a parcel of land situate in Calidonia by public deed No. 62 of 1890 before Notary Public No. 1. 4th. That they cancel whatever credit they may hold against Jose Garcia de Paredes proceeding from the estates of their late parents. Jose Garcia de Paredes in turn grants to said parties all rights which he may have or believe he has in the estate "Lo de Caceres," recognizing them as the sole owner of said estate in their capacity as heir of Ramon Garcia de Paredes. He also grants to them the half of a pasture land together with the appurtenances thereunto appertaining, (the pasture referred to in the second clause of the compromises of the heirs of Ramon G. de Paredes). He binds himself to deliver the sum of one hundred twenty pesos ($120.00) in current legal money. The family of the heirs of Ramon Garcia de Paredes has the right to the use of the bath known by the name

of "El Potrero." Jose Garcia de Paredes, familiar with the basis of settlement, stated that he accepted the same, and the same statement was made by Dr. Porras on behalf of his clients, and Everardo, Ramon, Alberto and Manuel G. de Paredes. The Judge ordered that there be shown in these proceedings that, by virtue of the decree issued by him on yesterday, Mrs. Catalina L. de Paredes, client of Dr. Porras, had had, in her
620 capacity of tutoress and guardian of the minors, Catalina Maria del Carmen, Guillermo Jose and Victoria Garcia de Paredes, the necessary legal authorization to proceed to compromise the suit brought by Jose Garcia de Paredes; it being obligatory to submit the compromise for Judicial approval in order that it may be binding; and the said Judge concluded the act, of which this record is drawn up, which is signed by those who have intervened in same in witness thereof, and of which record three copies shall be taken, one for each party and the other for attachment to the file containing the complaint of Mr. Paredes. A true copy. Panama, March 31, 1894. Pablo Antepara, Acting Clerk. To the First Judge of the Civil Circuit, Present: In accordance with the order made by you in the order of March 30 last past, by which you authorized me to proceed to make a compromise with Jose M. Garcia de Paredes with regard to rights of my minor children, Catalina Maria del Carmen, Guillermo Jose and Victoria Garcia de Paredes, of whom I am the tutoress and guardian, and in accordance with the advice given by you at the judicial conference, at which said compromise was made, in order to bring to an end the suit brought by the said Jose M. Garcia de Paredes against the heirs of Ramon Garcia de Paredes with the object of excluding from the inventories of the estate of the latter the estate of "Lo de Caceres," and in accordance

with the provisions of Art. 489 of the Civil Code, I hereby request that you will kindly give your approval to the said compromise, which in authentic copy figures in the file of said suit, and order that in the book of amicable conferences or agreements in ordinary suits, and at the foot of the said compromise, there be attached a copy of the decree which, by virtue of this pleading, you sign, approving said compromise, or that there be placed a note of the Clerk expressing such circumstance. Panama, April 3, 1894. Catalina L. de Paredes. The foregoing memorial has been presented to me on the day of the date thereof. Antepara, Acting Clerk. Court One of the Civil Circuit. Panama, April 6, 1894. Whereas, in consideration of the foregoing memorial, and the record of the amicable conference had on the 31st day of March last between Jose Garcia de Paredes, plaintiff in the exclusion of the estate "Lo de Caceres" from the inventory of the property belonging to the estate of Ramon Garcia de Paredes, and the defendants, Catalina L. de Garcia de Paredes, surviving spouse of Ramon Garcia de Paredes, and tutoress and guardian of her minor children, Catalina Maria del Carmen, Guillermo Jose and Victoria Garcia de Paredes, and Everardo, Ramon, Otilda, Cristina, Alberto and Manuel Garcia de Paredes, and considering: That in ac-
621 cordance with Art. 489 of the Civil Code, in order for compromises made relative to rights of wards to be valid, they require the approval of the Court; that in the opinion of the undersigned the compromise made between the persons aforesaid at the amicable conference does not redound to the prejudice of the minors represented by Mrs. Catalina L. Garcia de Paredes,—Wherefore, the undersigned Judge makes the following finding: The compromise in question is approved. Let a record be made of this approval at the

respective place of the book where the minutes of conferences in ordinary suits are inserted. Let notice issue of this finding.—Carlos Bordua. Pablo Antepara, Acting Clerk. On April 7, 1894, I notified Jose Garcia de Paredes of the foregoing finding. Jose G. de Paredes. Antepara, Acting Clerk. On April 7, 1894, I notified Mrs. Catalina L. de Paredes of the foregoing finding. Catalina L. de Paredes. Antepara, Acting Clerk. On April 10, 1894, I notified Manuel Garcia de Paredes of the foregoing finding. M. G. de Paredes. Antepara, Acting Clerk. On April 7, 1894, I notified Ramon Garcia de Paredes Lewis of the foregoing finding. R. G. de Paredes Lewis. Antepara, Acting Clerk. On April 7, of this year, I notified Everardo Garcia de Paredes of the foregoing finding. E. G. de Paredes. Antepara, Acting Clerk. On April 9 of this year I notified Belisario Porras of the foregoing finding. Porras. Antepara, Acting Clerk. On April 7 of this year I notified Alberto Garcia de Paredes of the foregoing finding. A. G. de Paredes. Antepara, Acting Clerk.

In witness whereof I issue this certificate at the request of Domingo Diaz A. in accordance with the foregoing memorial this the 21 day of April, 1921.

Sgd. M. ALMANZA CABALLERO,
(Stamp seal) Sub-Director of the National Archives.

The undersigned, Sub-secretary of Government and Justice, certifies: That the foregoing signature reading M. Almanza Caballero, is the true and genuine signature of the Sub-director of the National Archives.

Done in Panama the 21 day of April, 1921.

Sgd. LEO GONZALEZ.

The undersigned, Sub-secretary of Foreign Affairs, certifies: That the foregoing signature reading Leo Gon-

zalez, is the true and genuine signature of the Sub-secretary of Government and Justice.

Done in Panama, April 21, 1921.

Sgd. JULIO LAFFARGUE.

(Fee stamps) (Stamp seal)

622 Balboa Heights, Canal Zone, Isthmus of Panama.

I, Jno. H. Smith, Acting Executive Secretary of the Panama Canal, in charge of the seal of the government of the Canal Zone, certify that Julio Laffargue is, and was on the 21st day of April, A. D. 1921, the duly appointed Sub-Secretary of Foreign Relations of the Government of the Republic of Panama, and that his signature as hereinabove written is true and genuine.

Witness my hand and the seal of the Government of the Canal Zone this 21st day of April, A. D. 1921.

Sgd. JNO. H. SMITH. (Seal)

623 PLAINTIFFS EXHIBIT "A-1."

Translation.

I, Francisco Marquez, Notary Public No. One Substitute of this Circuit, after having carefully examined the Protocols of public and private instruments of this notarial office, certify:

1st. Transmission of the right of ownership of the estate "Lo de Caceres."

Year of 1806—By public deed under date of March 21, 1806, Mrs. Clara del Carmen Gongora de Caceres

sold to Mr. Felipe del Barrio the estate called "Lo de Caceres." This deed does not exist in the notarial office, and I only cite said deed thru reference made to it by Mr. del Barrio in the deed by which he sells.

Year of 1810—By deed executed the 17th of November, 1810, Felipe del Barrio sold the same estate to Jose Brajimo de Heredia.

Year of 1811—By deed bearing date of September 16 of this year Jose Brajimo de Heredia sells to Jose Anjel Alzamora the same estate.

Year of 1811—During this same year Jose Anjel Alzamora sells said estate "Lo de Caceres" to Juan de Herrera y Torres, according to declaration contained in a note on the margin made by the latter September 16, 1811.

Year of 1824—By deed of January 22 of said year Juan de Herrera y Torres sold the said estate to Jose Maria Beliz.

Year of 1825—By deed executed the 13 day of December of this same year Jose Maria Beliz sells back the said estate to Juan de Herrera y Torres.

Year of 1831—On the 30 of April of this year Mrs. Francisca Davila, widow of Juan de Herrera y Torres, sold to Mariano Arosemena the said estate.

Year of 1831—By public deed executed October 11, 1831, Mariano Arosemena sold the same estate to Pedro Miro.

Year of 1832—By deed dated October 12 Pedro Miro sold to Jose Garcia de Paredes the aforementioned estate "Lo de Caceres."

Note.—In this deed there appears the following boundaries: From the "Mata Redonda" to "Mocamba," a straight line, and from the "Mata-redonda" on the side of "Pan de Azucar" the old titles will govern.

2d. Boundaries of the estate "Lo de Caceres" with the estates of "Pan de Azucar" and "Mata Redonda." ("San Jose" is written over "Mata "Redonda" in blue pencil.)

The boundaries of "Pan de Azucar" and "San Jose," extracted from the deed of sale executed by Jose
624 Pizano in favor of Dr. Carlos de Ycaza on March 6, 1826, are the following:

"They begin at the old royal crossing of "Rio Hondo" or "Rio de la Puente," that is, the pass or crossing which served as a road of old Panama to go to Cruces; then continuing seeking a running creek which near said place empties, and going along the entire length of said creek to the place of its source, and thence in a straight line to the stream of "La Palangana," continuing along said stream, up-stream, until reaching a point parallel with the royal crossing of said "Rio Hondo," at the point where the crossing is made in order to go from this city to "Mata Redonda," and continuing in a straight line to the said crossing it then goes on along the aforementioned royal road of Mata Redonda to a stream or small creek in the plains, and runs from south to north, which stream takes in some rows of hills, along with the hill of "Pan de Azucar," on both sides or banks of the stream, until entering the sabanas, continuing along this stream, up-stream, to some bushes where there are several small wells forming the source thereof; from which point it continues, seeking the source (which is nearby), of a muddy stream which empties in "Mataznillo," by which it continues, and following the natural direction thereof, taking in the plain lands of the Gallinero, which lands are between two small streams which, uniting their waters, surround the

same. Of said streams, the one which is on the north side serves as the boundary with the lands of "Lo de Caceres," and the one on the south, with the lands of "Lo Loceria"; continuing along this last mentioned stream to its source, (which is in a hill), from said point there is sought in a straight line an old paved highway, (a short distance away, and was the road from old Panama to Cruces), which, altho it is in a rather ruinous condition, it is still recognizable, and along said highway the boundary continues until reaching the said royal crossing of "Rio Hondo," which is contiguous to "La Loceria," where the boundary lines began, as it all appears from the titles of said estate.

The boundaries of "Mata Redonda," extracted from deed No. 212, executed before Notary Jose B. Martinez on August 25, 1876, by Mr. P. C. Arauz, in favor of Jose Sayas y Batista, are:

"From the "Pena Hueca (hollow rock) of this name (Mata Redonda), a straight line, to the hill of the "Algarrobo," and without interruption to the hill of "Vidrio," and thence to the hill "Gordo," turning around to the headwaters of the "Rio Cardenas," down stream, to the confluence with the "Palangana" stream, and by this latter stream, up-stream, to the stream of the "Platanar"; without interruption to the headwaters thereof, and thence in a straight line to the first boundary line. Wherefore, the estate is bounded on the north by the lands of "Lucha Franco," belonging to Pantaleon de la Guardia; on the south by the lands of the estates, San Jose and Pan de Azucar, belonging respectively to Carlos Ycaza Arosemena and Francisco Antonio Hurtado; on the east by the lands called "Lo de Caceres," whose owner I do not know;

and on the west by the lands called "El Guanabano," which are said to belong to a Mr. Tallaferro."

Boundaries of "La Loceria" taken from the deed by which Mrs. Julia Green de Laffargue sells said estate to Mr. B. Gutierrez in the year 1868:

"On the west by the part which belongs to Mrs. Julia Plice de Morro, there being at that point a creek indicating the boundary, and which runs down to the pool or bathing place of "La Loceria," the river being the natural boundary; on the south it is bounded by the estates or lands of "Cangrejo," and by the estate and lands of "Juan Franco" belonging to Ramon Gamboa, from the headwaters of the stream "Higuana", in a straight line to the "Hato Pintado," belonging to the heirs of Jose Maria Remon; on the east by the river Mataznillo; and on the north up to meeting with the boundaries of the estate "Pan de Azucar" belonging to Francisco Antonio Hurtado; and thence following along the boundaries of the estate of "San Jose belonging to the heirs of the late Dr. Carlos de Ycaza."

3d. Assignment of quit-rents which encumbered the estate "Lo de Caceres."

By deed of September 25, 1832, there was transferred to the estate "Mata-redonda" the sum of one thousand pesos.

By deed dated October 14 of the same year there was transferred and recognized for the estate "Juan Franco" the sum of eight hundred and fifty-five pesos and 25 cents.

By deed of November 2 of the same year there was transferred and recognized in favor of the Agustinos

Descalzos and of the College of the Isthmus three thousand six hundred and fifty-five pesos.

And at the request of Adolfo Aleman I issue this certificate on four sheets of paper of the first class, in Panama, the 19th of January, 1892.

Sgd. FRANCISCO MARQUEZ,
Notary Public No. 1 Substitute.

626 Decree No. 158 of 1886.

At. 1, Sec. 7	$1.20
Art 1, Sec. 3	3.50
Total	4.70

Sgd. MARQUEZ.

(Fee stamps)

Eusebio A. Morales, Secretary of Finance, in charge of Government and Justice, certifies: That the foregoing signature reading "Francisco Marquez" is the true signature of the Notary Public No. 1 substitute of the Circuit of Panama in the legal discharge of his duties at the time at which said signature appears written in the foregoing document.

Done in Panama the 9 day of the month of April, 1921.

(Sgd.) EUSEBIO A. MORALES.

(Stamp seal).

The undersigned, Sub-secretary of Foreign Affairs, certifies: That the foregoing signature reading "Eusebio A. Morales" is the true signature of the Secretary of Government and Justice.

Done in Panama April 9, 1921.

(Sgd.) JULIO LAFFARGUE.

(Stamp seal).

Canal Zone, Isthmus of Panama.

I, Jno. H. Smith, Acting Executive Secretary for the Panama Canal in charge of the seal of the Government of the Canal Zone, certify that Julio Laffargue is, and was on the ninth day of April, A. D., 1921, the duly appointed Sub-secretary of Foreign Relations of the Government of the Republic of Panama, and that his signature as hereinabove written is true and genuine.

Witness my hand and the seal of the government of the Canal Zone this 9 day of April, 1921.

(Sgd.) JNO. H. SMITH.

(Seal).

627 PLAINTIFF'S EXHIBIT "Q-1".

Inventory and appraising of property in the probate proceedings regarding the will of General Domingo Diaz which we the undersigned duly authorized by the Judge of the First Ciriuit Court have performed .....

.....

IX: The estate known as Lo de Caceres, part of which is within the district of Panama and the rest within the Canal Zone. The boundaries of the said estate are as follows: A straight line from Mocambo to the spot called Mata Redonda, thence to the headwaters of the Platanar Creek and along the latter downstream to its confluence with the Palangana Creek and following the natural course parallel with the ancient Royal Pass or crossing of Rio Hondo at the place used for crossing in order to go from this city to the estate of Mata

628 Redonda, and following in a straight line to the said Pass it continues along the Royal Road

of Mata Redonda aforementioned up to a stream or ditch in the meadows and which runs south to north; the said stream comprises a series of hills with the hill of Pan de Azucar on the one and the other bank until flowing out into the Sabanas, continuing up this stream to some bushes (chumicos) where there are some wells, the source thereof, and from which point the source of a muddy ditch which empties itself into the Matasnillo is sought, continuing therefrom and uniting its waters in the Matasnillo with those of another stream flowing a little further down the meadows of the Gallinero and which lay between this stream, of these streams the one that is on the north side is the boundary of the land of Lo de Caceres up to its junction with the river Matasnillo and then along the Matasnillo upstream until striking an imaginary line running to the summit of the hill of Barro Colorado and that of Gallinero. This straight or visual line is drawn from the summit or highest part of Barro Colorado, which hill is in view from the house of the estate of Lo de Caceres to the summit of its highest part of the hill of the Gallinero in the lands of La Loceria, which hill can be located by drawing the said visual line to the slopes or lowest part of the hill La Pava and from this hill to the slopes of Ancon Hill. From the summit of the hill of Barro Colorado another straight or visual line is drawn to the hill of Bruno Cerda which is in the vicinity of the headwaters of a stream serving as a bathing place for the estate of La Carrasquilla, and which empties itself within the vicinity of the front part of the slaughter house of old Panama. From the headwaters of this stream a straight line to the summit of the hill of Sonsonate, then towards the Tesorera Creek and along this stream to Mocambo, the starting point. A portion of this estate lies within the Canal Zone. It was bought

by General Diaz portion by portion from its owners, the heirs of Mr. Ramon Garcia de Paredes
629 Barrera according to public instruments drafted before Notary Public Number Two of this Circuit as follows: Public Instrument No. 59, dated February 26, 1909; number eighty-three dated March 18, 1909; number one hundred thirty-three dated May 19, 1909; number one hundred and seven dated May 5, 1909; number ninety-four dated April 7, 1909; number one hundred and twenty-one dated May 12, 1909; and number two hundred and thirty-seven of August 22, 1910, Panama, July 2, 1913. (Signed) Elisia A. de Diaz. Domingo Diaz A. J. A. Jimenez. Witnesses, Juan Navarro D., C. F. del Rio. .....

Third Circuit Court, Panama, August 27, 1913. Know all men by there presents:

In a writ of June last Domingo Diaz A., Elisia Arosemena de Diaz and Juan Antonio Jimenez at attorney-in-fact for his wife Mrs. Isabel Diaz de Jimenez, filed before the proper judge, that of the First Circuit Court, a petition asking permission to perform extrajudicially the inventory and appraisement of the property belonging to General Domingo Diaz, deceased. Permission was granted by resolution of the same date and on July 2nd the said inventory and appraisement were performed before witnesses Juan Navarro D. and C. F. del Rio; notification was made as prescribed in Article 1269 of the Code of Civil Procedure and the interested parties did not file any objection as it was their privilege during the period of six days, therefore, notification was made to the Treasurer-General of the Republic who made the liquidation and separated a probate tax to the amount of B/367.50 which the interested parties in these probate proceedings must pay to the Treasury. These pro-

ceedings were given to them for study for a period of twenty-four hours each in order that they would file any observations or objections to the liquidation and they expressly stated that they had no objection to make. The interested parties had petitioned this Court already to approve the inventory and appraising performed extrajudicially; that the whole of the
630 estate be assigned to them jointly and undividedly and that this Court order the registration of the corresponding decree as well as the protocolization of the whole proceeding and, as the tax has been paid the petition is proper and this Court administering justice in the name of the Republic and by the authority of the law decrees: First—Let the liquidation performed by the Treasurer General of the Republic in these probate proceedings be approved. Second.—The extrajudicial inventory and appraisement performed on July 2nd last and on the 11th of the same month are equally approved. Third.—The whole of the fortune is hereby assigned jointly and undividedly to Mr. Domingo Diaz A., and Mrs. Isabel Diaz de Jimenez, the heirs of General Domingo Diaz and to Mrs. Elisia Arosemena de Diaz surviving wife. It is assigned according to inventory, and Fourth.—Registration in the respective offices is hereby decreed for this Decree and for the whole probate proceeding and the inventory and appraisement thereof which are to be made at the office for registration of public and private instruments and the office of the Notary Public Number One of this Circuit. Be it published, copied and notified. (Signed) Alfonso Fabrega, Juan Conte A.—I notified today August 28, 1913, at 9:30 a. m. Mr. J. A. Jimenez the preceding decree. (Signed) J. A Jimenez, (Signed) Conte A., Clerk. I notified today the 27th of August, 1913, at 3 p. m. Mr. Domingo Diaz A., the preceding decree. (Signed) Do-

mingo Diaz A. (Sgd.) Conte A., Clerk.—I notified today the 29th of August, 1913, at 11 a. m., Mrs. Elisia de Diaz, the preceding decree. (Signed) Elisia A. de Diaz. (Sgd.)Conte A., Clerk. Copied in the registry book, pages 69 to 71 today August 28, 1913. Assistant Clerk, (Signed) Isasa. It is sent to the respective offices in order that the decree registry should take place September 3rd, 1913. (Signed) Amador. .....

Registry Office.—Panama, September 3, 1913. The above decree has been registered as well as the inventory and appraisal above stated in book five of probate proceedings from page 176 to page 177, under the
631 number 73. The Registrar. (Sgd.) Enrique Marquez R.

It agrees with its original, being taken from the probate proceedings of General Domingo Diaz, protocolized by deed 814 of September 5, 1913, and I tender this copy in two sheets at Mr. Julio J. Fabregas' asking. Panama, May 24, 1918. (Signed) Francisco A. Facio, Notary Public Number One. (There is a Notary's Seal).

Certificate No 113. Thomas Herrera, Mayor of this city, in charge of the Governor's Office of the Province of Panama, certifies: That the preceding signature which says "Francisco A. Facio", belongs to the Notary Public Number One of this Circuit, who is in legal exercise of his duties. Given in the Governor's Office, Panama, on the 24th day of the month of May, 1918.

(Signed) TOMAS HERRERA,
(Signed) G. DUTARI,
Acting Secretary to the Governor.

(There is a seal).

Julio Arjona Q., Assistant Secretary of State in the office of Government and Justice, certifies: That the above signature which says "Tomas Herrera", belongs to the Mayor of this City who is in legal exercise of his duties. Given at the office of the Secretary of Government and Justice, Panama, on the 24th day of May, 1918.

(Signed) JULIO ARJONA Q.,
Assistant Secretary of Government and Justice.

(There is a seal).

632 EXHIBIT "R-1".

Guillermo Patterson, Junior, and Guillermo Patterson divide between the some properties held by them undivided.

Panama, June 12, 1918.

Number 183—In the city of Panama, Capitol of the Province and of the Republic of the same name, on the 12th day of the month of June, of the year, 1918, before me, Archibaldo Boyd, Notary Public No. 2 of the Circuit of Panama, personaly appeared Messrs. Guillermo Patterson, male of lawful age, widower, proprietor, Panamanian, and a resident of this city, and Guillermo Patterson, Junior, male of lawful age, married, chemical engineer, Panamanian, and also a resident of this city, known to me, and both requested that I draw up in a public deed the contents of the following memorandum, which reads:

"Mr. Notary Public No. Two: Please insert in your book of protocols of the present year a public deed in which the following be shown: First. By order of the

18th of February, 1916, there was declared open the testamentary succession of Cristina Medrano de Patterson, and by order of the 22d of the same month and year, there was adjudicated undivided to the only "legitimate heir, Dr. Guillermo Patterson, Junior, and to her spouse superstite (surviving spouse), Mr. Guillermo Patterson, Sr., the property described in the inventory proceedings".—Second. That we have considered it convenient to terminate the succession suit which remained incomplete, as no partition was made, and to carry into effect said partition, by virtue of which the urban properties appearing in the registry of Property under the number 824 and 233 are adjudicated to the surviving spouse, Mr. Guillermo Patterson, Sr., and the urban property registered under the number 340 is adjudicated to the testamentary heir, Dr. Guillermo Patterson, Jr. —Third. The rural property inscribed under the number 241 in the Property Registry has a portion within the Canal Zone and another in the Republic of Panama. The part in the Republic of Panama, as appears in
633 the first clause, was adjudicated to us undivided, and the part within the Canal Zone also belongs to us undivided, by reason whereof it becomes necessary to divide the property, which we do in the following manner: All the part comprised within the territory of the Canal Zone is adjudicated to the surviving spouse, Mr. Guillermo Patterson Sr., and all the part of the property comprised within the territory of the Republic of Panama is adjudicated to the testamentary heir, Dr. Guillermo Patterson, Jr. The part adjudicated to the heir, Dr. Patterson, has the following boundaries: From a point on the Canal Zone boundary line where there crosses said line of demarkation an imaginary line going from the bush known by the name of "La Mata Redonda", which bush is in lands

of the Canal Zone, in the open land, alongside the Portobelo road at the place where the properties La Gloria, Lo de Caceres and Mata Redonda adjoin, opposite the place where the houses of Mr. Patterson were located, from said bush in a north-northeastely direction to the hill of the Algarrobo, which hill is alongside the same Portobelo road and the north slope thereof is washed by the stream La Tesorera. From said point of intersection with the boundary of the Zone, which point is some 100 meters from the monument No. 87, the boundary continues by the line mentioned to the hill Algarrobo inclusive, and from said hill it continues in a westerly direction to the hills of the Vidrio and Cerro Gordo inclusive, whose north slopes are also washed by the stream La Tesorera, by which stream the boundaries follow to the headwaters thereof which are at the foot of the Cerro Gordo, and from the slopes of said hill Cerro Gordo the line goes in a north-northwesterly direction to the headwaters of the river Cardenas, turning from the stream of the principal branch rising in the mountain of the Penon and Penoncito to the branch known under the name of Quebrada Larga which rises at the foot of one of the peaks of the hill of Mocambo; thereafter the boundaries continue following this branch of said river, down stream, in a southerly direction, to meeting the boundary of the Canal Zone, and
634 by said boundary returns in a south-easterly direction to meeting the point of intersection at some 100 meters from the monument No. 87, which was taken as a starting point. The body of land described is bounded on the north by Lucha Franco from the place where there is found La Tesorera and the Portobelo road to the mountain of the Penon and Penoncito, where the river Cardenas rises; On the south by the Canal Zone in its entire length; on the east by the

Portobelo road throughout its entire length, which road separates it from the lands which belonged to J. M. Goytia and which at present, it is stated, form part of Lo de Caceres; on the west by Agua Buena, from which lands it is separated in part by the branch of the river Cardenas called Quebrada Larga. The area thereof is 750 hectares,—Fourth. In this transaction no money whatever has passed inasmuch as it is the termination of the succession suit of Mrs. Cristina Medrano de Patterson, the fees whereof, as well as the registry fees, were already paid; neither is any property whatever acquired nor transferred; but there is assigned thereto the value of 100 balboas for the purposes of the registry. You will kindly add all the clauses necessary in order that this deed may be correct and valid in accordance with law.—Panama, June 12, 1918.—G. Patterson—G. Patterson Jr."—I advised the makers that the copy of this instrument must be caused to be registered in the respective office, and upon the same being read to them in the presence of the instrumental witnesses, David Moises Sasso and Eleazar Rios Herrera, males of lawful age, residents of this circuit, and competent as such witnesses, they approved same and signed it before me, together with the witnesses mentioned, stating as a matter of record that the regular number corresponding to this instrument in 193.—G. Patterson—G. Patterson, Jr.—David M. Sasso—E. Rios H.—Archibaldo Boyd, Notary Public Number Two.

This second copy which, on two lawful sheets, I issue this the 20 day of June, 1918, at the verbal request of Mr. Domingo Diaz Arosemena, agrees with the
635 original thereof.

(Sgd.) ARCHIBALDO BOYD,
(Seal) Notary Public No. 2.

Eusebio A. Morales, Secretary of Finance, in charge of Government and Justice, certifies: That the foregoing signature reading "Archibaldo Boyd" is the same signature used by said gentleman at the date when he discharged the duties of Notary No. Two of the Circuit of Panama.

Done in the city of Panama the 9 day of the month of April, 1921.

(Sgd.) EUSEBIO A. MORALES. (Seal).

The undersigned, Sub-secretary of Foreign Relations, certifies: That the foregoing signature reading "Eusebio A. Morales" is the genuine signature of the Secretary of Government and Justice.

Done in Panama, April 9, 1921.

(Sgd.) JULIO LAFFARGUE. (Seal).

Canal Zone, Isthmus of Panama.

I, Jno. H. Smith, Acting Executive Secretary for the Panama Canal, in charge of the seal of the Government of the Canal Zone, certify that Julio Laffargue is and was on the 9th day of April, A. D. 1921, the duly appointed Sub-Secretary of Foreign Relations of the Government of the Republic of Panama and that his signature as hereinabove written is true and genuine.

Witness my hand and the seal of the Government of the Canal Zone this ninth day of April, 1921.

(Sgd.) JNO. H. SMITH. (Seal).

636 EXHIBIT "A-A".

(Translation).

Public sale.—Marino Arosemena in favor of Mr. Pedro Miro of the estate called Caseres.

Be it known that I, Mariano Arosemena, a member of the commerce of this city, stipulate by the tenor of these presents that I give in public sale from now and for all time to Pedro Miro, also of this place, in order that it may belong to him, his heirs, successors, and whomsoever in any manner may represent him an estate called Caseres, together with all that comprehended in the establishment of Algarrobo, the houses, furniture, lands, corrals, fences, the cattle and horses found on the estate branded with the iron of the estate, (here the original is torn),—tos, drinking troughs, watering places for cattle, uses, rights-of-way and whatsoever in fact and by right corresponds to same, the boundaries of which are designated in the titles which I deliver to the purchaser, which said estate I acquired and purchased from Mrs. Francisca Davila, widow of Juan de Herrera y Torres, by deed executed before the present notary, and as my own which is by this sale, I guarantee it free of pledge, obligation and mortgage, and any other charge and lien except those which will be expressed, the said sale being made to the said Pedro Miro for the intrinsic value (here the original is torn) eight thousand six hundred and sixty-six pesos, who is to recognize therein quit rent and redeemable contribution in favor of the following interested parties:—eight hundred and eight pesos of a patronage enjoyed by Madam Clara Gongora, and by her death, (here it is torn), sold according to the (word unintelligible), from

the foundation thereof; three thousand pesos in favor of Dr. Pedro Escobar y Leon, absent in La Paz, for whom Manuel Jose Ortiz acted as attorney-in-fact; four hundred and fifty-five pesos, two and a half dimes, to the confraternity of the Senor Sacramentado which is worshipped in the holy Cathedral; four hundred and fifty-five pesos, two and a half dimes, in favor of the extinguished Convent of Santo Domingo in this city; four hundred and fifty-five pesos, two and a half dimes, for the confraternity of Our Lady del Carmen, worshipped in the Parish of San Felipe. And one thousand two hundred pesos in favor of the Convent of san Jose Agustinos Descalzos of this said city; (here it is torn),—tos pesos Capellania (here it is torn)—Mr. Casimiro Perez,

637 the proceeds from which are all to be satisfied at the rate of two per cent per year, and are to run and be computed from this date henceforth, it being fully understood that the purchaser is to seize by himself the possession of the aforesaid estate Caseres and all appertaining and corresponding thereto, of which mention has been made, gathering the cattle and horses appearing with the iron and brand of the said estate. And he declared that the said eight thousand six hundred and sixty-six pesos aforesaid is the just and actual value today of the said estate Caseres, and in case it be worth more, or may be worth more, the excess, in whatsoever manner it may be, I make a gift and donation thereof to the purchaser, good, pure, mere, perfect and irrevocable, of those which the law calls intervivos, with the presentation of the proper document, and waiving of the law of the Royal ordinance, dated in Cortes de Alcala de Henares, and all else relating thereto, and especially the first, title eleven, book fifth of the Recopilacion, and the last of the final title, sixth law, in order not to be able to request re-

cision of this contract. Whereby I desist, quit and separate myself from the right of possession, ownership and seigniory which I acquired and had to the aforesaid Caseres estates, and everything, together with the Royal Patronage, I cede, renounce and transfer to the purchaser in order that, as his own, which it is by virtue of this deed which I give him as title of his possession, he may dispose of same as he may see fit. And I bind myself to the eviction, security and warranty of this sale in such manner that now and at all times it will be certain and secure to him, and against his possession there shall not be placed any law suit, embarrassment, nor contradiction by any person, and if any such shall be placed, or attempted, (here it is torn), upon my knowledge thereof, I shall appear in his defense, and I shall follow same up at my cost and instance until leaving the purchaser in quiet and peaceable possession, and if I am not able to defend the title I will indemnify him for the damages, delay and injuries occasioned him thru the lack of said warranty by virtue of this deed, the notification thereof, and the simple oath of the party competent to present same in Court, without the necessity of any other justification whatsoever, or proceeding, altho same may be required by law, because I relieve him of this requirement. And for the compliance and stability of everything in question I bind my person and present and future property, with the power of justice or Courts, to those of the Republic
638 of Colombia wherever they may be, to which law and jurisdiction I submit, and I waive my own domicile residence, and the law which says that the actor must follow the jurisdiction of the defendant, in order that, upon the statement made, he may be served with execution, compelled and urged under the full rigor of the law and channel of execution, as by judg-

ment passed in authority of res adjudicata, upon which I waive (here it is torn), the laws, jurisdictions and rights in my favor, and the law which prohibits the general waiving of them in form. And being present and familiar with the contents of this deed, I, Pedro Miro, acknowledge satisfaction and delivery of the said Caseres estates, and every thing appertaining and corresponding thereto, as is set forth in more detail, by seizing by myself the possession of the estate, acknowledging the receipt thereof at my pleasure, with the waiving of the laws which treat of the thing not seen, the proof thereof, fraud, deceipt, and all else in the premises according to and as in each one of them (here it is torn) that I issue a receipt in form. And I bind myself to the payment and satisfaction (sanificacion) of the respective proceeds annually to those (here it is torn) set forth in the liens upon the aforementioned Caseres estates, at the rate of three per cent, and to execute in favor of each one of them the acknowledgments (here it is torn) the formalities established by law in similar cases. And the corresponding registry fee being paid, as appears by the respective certificate issued by the Collector, the same is inserted, for better record, in this instrument, and the tenor thereof is as follows:—Certificate No.—Collector's office of the annotation of Mortgages and of Registration of the Canton of the Capital of the Department of the Isthmus. On this date Mariano Arosemena has paid into this Collector's office five pesos, three and a half dimes, as the registry fee of the deed of sale made by him in favor of Pedro Miro, of an (here it is torn) called Caseres, situate on the outskirts of this city, deduced to (here it is torn) per cent of eight thousand six hundred and sixty-six pesos which he recognizes as quit rent and redeemable contribution; it appears from law No. (here

it is torn) of the (here it is torn) respective. Panama, October 11, 1831.—The Collector, Pedro Ledezma.—Dated in the city of Panama the 11th of October, 1831. And the makers, whom I the undersigned Notary Public of the Province and number certify that I know, so stated and signed, witnesses thereto being
639 citizens Ventura Calvo, Manuel Carrasco, Jr. and Damian Jose Pacheco.—Mo Arosemena, Pedro Miro,—J. Rudo Patino, Provincial Notary Public.

This copy, which I issue on two sheets of legal cap at the request of Domingo Diaz Arosemena, in Panama, the 22nd day of April, 1921, agrees with the original thereof.

(Sgd.) ALFONSO FABREGA,
(Stamps seal) Notary Public No. 1.

Ricardo J. Alfaro, Secretary of Government and Justice, certifies: That the foregoing signature reading "Alfonso Fabrega" is the true and genuine signature of Notary One of the Circuit of Panama in the lawful discharge of his duties.

Done in the city of Panama the 22nd day of the month of April, 1921.

(Sgd.) R. J. ALFARO.

The undersigned, Sub-Secretary of Foreign Affairs, certifies: That the foregoing signature reading "R. J. Alfaro" is the true and genuine signature of the Secretary of Government and Justice.

Done in Panama the 22 of April, 1921.

(Sgd.) JULIO LAFFARGUE.

(Fee stamps). (Stamp seal).

Balboa Heights, Canal Zone, Isthmus of Panama.
I, Jno. H. Smith, Acting Executive Secretary for The Panama Canal, in charge of the seal of the Government of the Canal Zone, certify that Julio Laffargue is, and was on the 22nd of April, A D. 1921, the duly appointed Sub-Secretary of Foreign Relations of the Government of the Republic of Panama, and that his signature as hereinabove written is true and genuine.

Witness my hand and the seal of the Government of the Canal Zone this twenty-third day of April, A. D. One thousand nine hundred and twenty-one.

(Sgd.) JNO. H. SMITH. (Seal).

640 EXHIBIT "AA-1".

Translation.

Sale—Juan de Herra y Torres in favor of Jose Maria Beliz of the Ecaseres estate.

Be it known that I, the citizen, Juan de Herra y Torres, of this city, stipulate by the tenor of these presents that I give in public sale from now and for all time to Br. Lr. ordino Jose Maria Beliz, in order that it may belong to him, his heirs, successors, and whomsoever may in any manner represent his rights, an estate of cattle and horses called Lo de Caseres, the boundaries of which appear in the titles which I deliver him, and it is the same estate which I acquired as appears from the declaration which on the sixteenth of September of the year one thousand eight hundred and eleven the late Jose Angel Alzamora made in my favor before the late Secretary, Francisco Xavier Patino; and as my

own for this reason I guarantee it free of pledge, obligation and mortgage, and all other charges and liens except those which hereafter will be stated, together with all its uses, rights-of-way, pastures, drinking troughs or watering places, feeding troughs, cattle, horses, house, slaves, and everything that in fact and by right may belong to same, I sell the estate in the sum of eight thousand pesos, five thousand one hundred and sixty-six pesos of which as quit rents said estate recognizes in favor of the following Capellanes: Madam Clara Gongora enjoys eight hundred pesos of a Patronage of Legos; Dr. Pedro Escobar three thousand pesos Capellania; The fraternity of the Senor Sacramentado worshipped in the interior church, four hundred and fifty-five pesos, two and a half dimes; The fraternity of our Lady del Carmen worshipped in the church of San Felipe, four hundred and fifty-five pesos, three dimes; The Convent of Santo Domingo, four hundred and fifty-five pesos, two and a half dimes. And today there having been adjudicated to the Seminary College some revenue at the rate of three per cent per year, the said purchaser must satisfy from this date henceforth the same to the said interested parties, and the remaining two thousand eight hundred and thirty-four pesos which, in cash, the purchaser has paid me, and with which I am satisfied, having received the same, and by reason of the fact that the delivery and receipt thereof does not appear as a present transaction, I waive the right to allege the contrary, and the exception and the laws of the non numerata pecunia, the proof thereof, fraud, de-
641 ception, and all else relating thereto, accord ing and as in each one of them it is contained, (here the original is torn), receipt in form. And I declare that the said eight thousand pesos is the just price and value today of the said estate and cattle ranch of

Caseres, and in case it is or may be worth more, the excess, in whatsoever manner it may be, I make a gift and donation thereof to the purchaser, good, pure, mere, perfect, and irrevocable, of those which the law calls intervivos, with proper presentation of document in Court and to which end I waive the law of the ordinance dated at Cortes de Alcala de Henares and all else agreeing therewith, especially the first law, title 11, book 5, of the Recopilacion, and the last law of the final title, in order not to be able to rescind this contract. Whereby I desist, quit and separate myself from the right of possession, ownership and seigniory which to said estate of Caseres I acquired and held, and I cede, renounce and transfer it to the purchaser in order that, as his, which it is by virtue of this deed which I issue him as title of his possession, he may dispose of the estate at his own free will. Notice being given that the seventy pesos corresponding to the public Treasury as the fee of Alcabala of the two thousand eight hundred and thirty-four pesos of the cash, (here the original is torn), the purchaser and I, (here the original is torn, and I bind myself to the eviction, security and warranty of this sale in such manner that now and for all time it shall be certain and secure to him, and against his possession there shall not be placed any law suit, embarrassment, or contradiction by any person whomsoever, and in case same should be placed or attempted as soon as I have knowledge thereof, I shall appear in his defense, and shall follow the same up at my cost and instance until leaving the purchaser in quiet and peaceable possession, and if I am not able to warrant the sale I shall return to him the said two thousand eight hundred and thirty-four pesos of the cash, besides the costs and damages occasioned him thru failure of said warranty, by virtue of this deed, the notification thereof, and the simple

oath of the party competent to present same in Court, without the necessity of any other justification or proceeding whatever, altho same may be required by law, because I relieve him thereof. And for the stability of this deed I bind my present and future property with the power of the Courts, and those of the Republic of Colombia wherever they may be, the submission and waiving of jurisdiction and laws in my favor, together with the law prohibiting the general waiving of them in form. And being present and familiar with the contents of this deed, I, the aforesaid Br. Jose Maria Belle, accept the same in its entirety and by (here the
642 original is torn), in my favor, and I acknowledge my satisfaction and delivery of the said estate and cattle ranch of Caseres, together with everything which in fact and by right appertain thereto, stock, pastures, watering places, house, furniture, and slaves thereon, the lands shown by the titles which I have received from the hands of the vendor. And because the delivery and receipt thereof is not a present transaction I waive the laws which treat of the thing not seen, the proof thereof, fraud, deception, and all else in the premises. And I bind myself to recognize the quit rents stated in favor of the respective interested parties up to the amount of the five thousand one hundred and sixty-six pesos, and also bind myself to the payment and satisfaction of their respective revenues each year at three per cent, which are to run and be computed from the day of the date hereof and henceforth, to the compliance of which I bind myself in the most solemn form and according to law. That it is dated in the city of Panama on the twenty-second of January of the year one thousand eight hundred and twenty-four. And the makers, whom I the undersigned Provincial Notary Public certify that I know, so stipu-

lated and signed, Jorge Gutierraz, Jose Maria Beltran and Jose Felix Lopez serving as witnesses—Jose Ma. Beliz.—Juan de Herrera y Torres—Josef Rud. Patino, Provincial Notary Public.

On the margin of this deed there appears the following insertion: "In the city of Panama on the thirteenth of December, one thousand eight hundred and twenty-five: Before me the undersigned, (here the original is torn), of those of the (here the original is torn), and witnesses, appeared Jose Ma. Beliz, a resident of this said, (here it is torn), known to me, and acknowledged that Juan de Herrera y Torres has returned to him the amount in which he bought from him the estate named Caseres, and for which reason he has placed him in possession of the estate in order that he may do whatever he may wish with same, declaring that there has not remained in me the least right to said estate inasmuch as I have been reimbursed the same amount that, (here it is torn); and I give by (here the original is torn), ta and chance, (here it is torn), the deed of the Center in order that it may not be valid, nor be competent in or out of Court. In testimony whereof he so (here it is torn) and signed being (here the original is torn) the citizens Pio Vallalobos, Raimundo Iturralde and Jose Antonio Zerda,—Jose Ma. Beliz—Jose de la M. Correoso.

This copy, which I issue on two lawful sheets, at the request of Domingo Diaz Arosemena, in Panama
643 on the 22nd day of April, 1921, agrees with the originals thereof.

(Sgd.) ALFONSO FABREGA,
(Stamp seal) Notary Public No. 1.

Ricardo J. Alfaro, Secretary of Government and Justice, certifies: That the foregoing signature reading "Al-

fonso Fabrega" is the true and genuine signature of Notary No. One of the Circuit of Panama, in the lawful discharge of his duties.

Done in Panama the 22nd day of the month of April, 1921.

(Sgd.) R. J. ALFARO.

The undersigned, Sub-Secretary of Foreign Affairs, certifies: That the foregoing signature reading "R. J. Alfaro" is the true and genuine signature of the Secretary of Government and Justice.

Done in Panama the 22nd of April, 1921.
(Sgd.) JULIO LAFFARGUE.
(Fee stamps): (Stamp seal).

Balboa Heights, Canal Zone, Isthmus of Panama. I, Jno. H. Smith, Acting Executive Secretary for The Panama Canal, in charge of the seal of the Government of the Canal Zone, certify that Julio Laffargue is, and was on the 22nd day of April, A. D. 1921, the duly appointed Sub-Secretary of Foreign Relations of the Government of the Republic of Panama, and that his signature as hereinabove written is true and genuine.

Witness my hand and the seal of the Government of the Canal Zone this twenty-third day of April, A. D. One thousand nine hundred and twenty-one.
(Sgd.) JNO. H. SMITH. (Seal).

644 Note: "demanda de jactancia" or "jactancia suit" is not translatable into English, as there does not appear any suit in American or English Courts corresponding to it. In the Panama jurisdic-

tion where a person or persons publicly assert that they have a right of action against a person or persons, whether by word of mouth or publication in a newspaper, the person or persons referred to may apply to a Court and file complaint therein, praying that said party be compelled to bring suit on their allegations within the time fixed by law, or otherwise be forever barred from bringing such action. This is called a "demanda de jactancia". Hereafter, where this term is used, the original Spanish will be used in this translation, viz, "jactancia" suit.

PLAINTIFFS' EXHIBIT "S".

Supreme Court of Justice.

Panama, May 15, 1920.

Whereas: The suit between Guillermo Patterson and the Diaz Arosemena family relative to the boundary of the properties "Pena Hueca" or "Mata Redonda" and "Lo de Caceres", each one belonging to each of the parties, has come up to this Court on appeal. In the lower Court the suit was prosecuted under the procedure prescribed by law, and Judge One of this Circuit pronounced judgment therein, which is hereinafter transcribed, and which is the subject matter of the appeal. It reads as follows:—

"Court One of the Circuit: Panama, January 23, 1919.

Whereas: By memorial of the sixth of November, one thousand nine hundred and seventeen, which in copy form has been inserted in the record, Guillermo Patterson brought suit against Elisia Arosemena, widow of

Diaz, Domingo Diaz Arosemena, and Isabel Diaz de Jimenez, praying that they be compelled within the legal period to begin an action on the rights stated by them to appertain to them in the lands called "Mata Redonda", closed, according to the Jactancia suit, within the following boundaries: From (sic) the Mata Redonda or Pena Hueca, a line more or less straight, along the road leading to Lucha Franco up to the stream, Tesorera, known by the name of "Los Tres Pasos"; thence following said stream or creek up stream to its source; thence in a straight line to the side above the large rock, and follows along the entire ridge of the hill until meeting the source of the principal branch of the River Cardenas, from which point it turns to the other source of said river known by the name of Quebrada Larga, and following along this branch said river, down stream, to the place where a stream with flat rock in its bed empties into it, and which stream passed through an old grove of papaya trees, known by the name of the Platanar; and following this creek, up stream, to its headwaters, and thence in a straight line to the Mata Redonda (or Pena Hueca), the starting point. The boundary between the Mata Redonda and Lo de Caceres is formed by the road of Lucha Franco from the Mata Redonda or Pena Hueca to meeting the stream La Tesorera. "Due to said action or suit Domingo Diaz Arosemena, Elisia Arosemena de Diaz and Isabel de Jimenez, have brought a possessory action against Guillermo Patterson in order that by final judgment, and a hearing on the part of defendant Patterson, the following declarations be made: "That the piece of land comprised within a visual straight line which, starting from the summit of the hill Mocambo extends
645 in a northwesterly-southeasterly direction up to meeting the boundary line between the Canal

Zone and the Republic of Panama, always seeking the Mata Redonda or Pena Hueca, which is alongside the ruins of the chapel of Mata Redonda; following the line of the Canal Zone to the road of Lucha Franco, this road to the stream La Tesorera, and from this point in a straight line, to the starting point, or, in other words, the summit of the hill Mocambo,—forms part of our property called Lo de Caceres. The line from Mocambo to the Canal Zone is the western boundary of the said piece of land; the Canal Zone line is the south-western boundary; the Lucha Franco road is the Eastern boundary, and the line from Lo Tesorera to Mocambo is the northern boundary of said piece of land. We request of you that you find that over said piece of land we have the right of possession, legitimately acquired, to the absolute exclusion of the pretended rights of Mr. Patterson; that said Patterson must refrain from disturbing us in our dominion and possession of said property; and that the registry of property number 241, folio 130, volume 9, of the Panama Section, is null, and that it be ordered canceled." "This action being admitted by the Court, and the different steps taken therein in accordance with the rules of procedure, the time has arrived to render judgment, and for that purpose the claims of the parties in relation to the titles filed by both sides are taken into consideration in order to determine the real situation in which they have placed the rights and facts invoked. "Diaz maintains that the boundaries of the lands 'Lo de Caceres' with relation to the lands of 'Mata Redonda' is a straight line which, starting from the Mata Redonda, ends at the Mocambo hill; and that the lands included within the boundaries mentioned in the petitionary part of the possessory action belong to the property Lo de Caceres, and not to Mata Redonda whose real boundaries are not those given in the Jac-

tancia suit, nor those given in the public deeds of 1891, where they have been altered to the prejudice of the lands Lo de Caceres; but before proceeding further with the discussion of the principal claims of the parties it is proper to consider and decide the demurrer to the complaint beforehand, which has been introduced by the defendant Patterson. Patterson maintains that the action brought by Diaz Arosemena does not lie because it has been brought in an improper manner; that
646 is to say, that it is not a possessory action which has been brought; but if an examination of the points of the complaint be made, the petition which in itself contains the right alleged, the conclusion is reached that the action does lie, and that it has been brought in a proper manner inasmuch as it has for its object that a finding be made that the actors have the ownership of a piece of land which has been included in the lands of Mata Redonda. Necessarily they have invoked as a right to bring the action Title 7 of Book 2 of the Colombian Civil Code, which treats on revindicatory actions, which is the action which the owner of a singular thing has, of which he is not in possession, in order that another be compelled to restore it. "The demurrer, therefore, does not lie, and the Court so finds. "The demurrer or exception having been examined and considered, as aforesaid the Court now proceeds to pass on the main issue. "In the year one thousand seven hundred and thirty-six the lands comprised within the following boundaries were exempted by Major Sergeant Juan Francisco de Ceceres: from the headwaters of the river Hondo, on this bank, to a stream situated in the neighborhood of Pan de Azucar, and from said stream, drawing a straight line to Matasnillo, and following the said straight line to the point where it meets the headwaters of a small stream which empties in the old city, and

from the headwaters of said stream, following a straight line on up to the hills of Sonsonate and Gallinazos, and thence to Mocambo, where the straight line goes down to the headwaters of the river Hondo, lying within the stream called de Castaneda. The parents of Juan Francisco de Caceres were in possession of said lands, who exempted same according to the new exemption made in 1736 by the Crown of Spain. They maintained these boundaries in all posterior acts relative to transmission of ownership of the Caceres lands up to the year 1832 when Don Pedro Miro acquired said property. "The boundaries of the lands of Mata Redonda have been given in the original public deeds; or in other words, the deeds of exemption and following ones read: From the Mata Redonda to the outlet of the river Cardenas, there being comprised herein the headwaters and watersheds of said river, the river Cardenas, down stream, to the watersheds adjoining the Palangana, and thence, going down a creek having a bed with flat rocks which crosses the Palangana, and from the hill of the Gallinazo to the limits of Mocambo. These are the boundaries
647 which Noriega gives in the public deed by which he transfers the ownership of Mata Redonda to Jose del Carmen Rivera in the year one thousand eight hundred and fifty-four. From the year one thousand eight hundred and thirty-two the boundaries between the lands Lo de Caceres and Mata Redonda consisted of a straight line which, starting from the Mata Redonda or Pena Hueca, ended at the Mocambo hill, according to Pedro Miro as set forth in the transfer deed of contribution from Lo de Caceres to Mata Redonda, and according to the deed executed in favor of Jose Garcia de Paredes, so that on Mrs. Josefa Miro selling to Mr. Noriega the lands of Mata Redonda it was done by the boundaries mentioned in the last men-

tioned deed, since she could not dispose of those lands by the original boundaries inasmuch as said boundaries had been altered by her lawful husband, Pedro Miro, upon selling Lo de Caceres to Jose Garcia de Paredes, sale which perfected itself by the lapse of time, since, dealing with a relative nullity and not an absolute one, and there being no posterior opposition on the part of the wife, said person's consent was understood for the transfer, Notwithstanding this Mr. Noriega, posterior owner of the Mata Redonda transferred his rights of ownership to Jose del Carmen Rivera, giving as boundaries of said lands, from the Mata Redonda to the outlet of the river Cardenas, there being comprised therein the headwaters and watersheds of said river, along the bed of said river, down stream, to the watersheds adjoining the Palengana, and thence going down a stream with a bed of flat rocks which crossed the Palangana, and on .the upper side from the hill called the Gallinazo to the limits of Mocambo. Later on these boundaries were altered by Rivera on selling to Corsino Arauz; by Arauz on selling to Sayas Batista; by Santibois, by Jose Gabriel Duque, and by Manuel Espinosa B. on transferring his right of ownership to Guillermo Patterson, as all these gentlemen gave as boundaries of Mata Redonda the following: "From the Pena Hueca of this name Mata Redonda, a straight line to the hill of the Algarrobo, and without interruption to the hill of Vidrio, and thence to the hill Gordo. "The transmission of ownership under those established conditions placed the purchasers within the conditions established by articles 752 and 753 of the Colombian Civil Code, according to which, if the one making the tradition is not the real owner of the thing delivered by him or on his behalf, other rights are not acquired by means of the tradition than those trans-

mitted from the very person making the tradition over the thing delivered. "The later purchasers of
648 the Mata Redonda acquired by the tradition the rights which the parties making the tradition might have over the thing conveyed, and which were no others than that of prescription; but one of said purchasers, to wit, Sayas Batista, convinced that his vendor had transmitted to him more than he had a right to transmit him, had occasion to resort to the Courts to claim his lawful rights, since with the Mata Redonda there had been transmitted to him rights of ownership to a portion of land which belonged to Lo de Caceres, portion which is no other than that which is now the subject of litigation, or, in other words, the portion comprised in part within the boundaries given by Mr. Patterson in the Jactancia suit (accion de Jactancia), boundaries which, it may be incidentally remarked, do not agree in their greater part with those set forth in the deed covering transmission of ownership. "Said rights of prescription were or became good by registry of the title in the Registry then existing, up to the year one thousand eight hundred and ninety-five, at which time the heirs of Ramon Garcia de Paredes sold at public auction the lands of Lo de Caceres under the boundaries given in the deed covering purchase/sale executed by Pedro Miro in favor of Jose Garcia de Paredes, as the entry in the Registry of the title acquired at public auction interrupted the prescription of the titles of Mata Redonda in order to give said prescription in favor of the heirs of Ramon Garcia de Paredes, in accordance with the provisions of article 2525 of the Colombian Civil Code, which reads as follows:—"The acquisitive prescription of real property or of real rights constituted therein does not obtain against a recorded title, except by virtue of another recorded title, nor shall it begin to

run but from the date of the record of the second.' "The title of Mata Redonda, which transmitted the ownership to Mr. Patterson, was recorded in the year one thousand eight hundred and ninety-one; and the title of Mr. Diaz in the year one thousand eight hundred and ninety five; both having reference to the same portion of lands, or, in other words, the lands comprised between the Mata Redonda and Mocambo in a straight line, and from Mata Redonda to the hill of the Algarrobo, and from this hill to Mocambo; the recording of the last title in the Registry interrupts the prescription of the first to transmit it to the second, and as in this instance there has been no posterior interruption whatever inasmuch as it was again recorded in the Public Registry created by Act 13 of 1913, it is unquestionable that in his
649 favor there exist all the rights which the prescription gives as an acquisitive means of ownership; if said prescription is added to the rights accrued by virtue of the title of purchase/sale of Jose Garcia de Paredes, the legal conclusion is reached that the heirs of Gen. Domingo Diaz hold the true owner ship of the lands in dispute inasmuch as the posterior re-registration of the title of Guillermo Patterson lacks legal value in the presence of article 15 of Act 13 of 1913, according to which, registration of a title of ownership to a piece of property being made, no other title in conflict therewith may be recorded; and if said registration should be made, a marginal note shall be entered calling attention to the error for the cancellation of said last registration. "According to expert opinion rendered by Macario Solis, Juan Patterson, Florencio Harmodio Arosemena and Manuel A. Alguero, the lands in dispute are comprised within the general boundaries of the lands Lo de Caceres and also within

the boundaries of the lands of Mata Redonda; the lands of this last mentioned estate, according to the Jactancia suit (demanda de jactancia), do not agree in their greater part with the boundaries given in the original titles of the Mata Redonda, nor with the boundaries given in the deeds of one thousand eight hundred and ninety-one which transmitted the ownership to Mr. Patterson, as while in the former it is stated that said boundaries are along the lower part from the Mata Redonda to the outlet of the river Cardenas, comprising the headwaters and watersheds, from the river Cardenas, down stream, to the watersheds adjoining the Palangana, and thence, going down a stream with a bed of flat rock, which crosses the Palangana, and on the upper side from the hill called the Gallinazo to the limits of Mocambo, in the titles of 1891 it is stated that said boundaries are from the Pena Hueca of this name (sic) Mata Redonda a straight line to the hill of the Algarrobo, without interruption to the hill of Vidrio, and thence to the hill Gordo, turning around the headwaters of the river Cardenas, down stream, to the junction, (or where it empties), with the stream La Palangana, and from this junction, up stream, to the stream Platanar (Platano); thence, this junction, up stream, to its source, and thence a straight line to the Pena Hueca; and in the jactancia suit the said boundaries are given in such a contradictory manner that they embrace more lands than those which, in reality, should correspond according to the original titles and those of 1891. The boundaries given in said suit read: From the Mata
650 Redonda (round bush) or Pena Hueca (hollow rock a line more or less straight along the road leading to Lucha Franco to reaching the creek or stream La Tesorera known by the name of 'Los Tres Pasos', thence following said streams, up stream, to the

source thereof, thence a straight line to the upper side of the Penon (large rock), and continuing along the entire ridge of the hill to meeting with the source of the principal branch of the river Cardenas, where it turns to the other source of said river known by the name of stream Larga, and continuing along this branch said river, down stream, to the place where there empties into it a stream having a bed with flat rocks, which crossed through an old papaya grove, known by the name of La Platanar; following this stream, up stream, to its source, and from there a straight line to the Mata Redonda (or Pena Hueca), the starting point. The boundary between Mata Redonda and Lo de Caceres is formed by the road of Lucha Franco from the Mata Redonda—round bush—(or Pena Hueca—hollow rock), to meeting the stream La Tesorera. "Defendant Patterson has objected to the expert opinion by reason of challenging experts Arosemena and Alguero, and bases said challenge on the grounds that Mr. Arosemena is an employe of Diaz Arosemena, and Alguero has been charged with being the author of the crime of falsehood. In order to disqualify said proof said challenge must be considered in direct reasoning with the provisions of article 853 of the Judicial Code, according to which experts may be challenged in the same manner as witnesses and for the same causes as the latter; and according to the provisions of articles 786, 788 and 789 of the Judicial Code incompetency of witnesses is of three classes, to wit: through lack of probity, by reason of natural incapacity, and through lack of impartiality. In order that the witness may be incompetent by reason of natural incapacity it is indispensable that said witness be crazy or demented, or blind or deaf, or that by any other cause said witness be of unsound mind at the time of giving testimony, or that said person be a

minor under fourteen years of age. Experts Arosemena and Alguero do not come under any of these cases. Through lack of probity the falsifier is not competent. There has been introduced in the record a copy of the Court order whereby criminal action is brought against expert Alguero for falsehood in official documents; but the order to proceed against is not the express declaration that the expert is a falsifier inasmuch as said order is not the legal finding required in final
651 sentences, or, in other words, in the judgments on a finding of guilty, which is the case where the penalty demanded by the circumstances of the case is meted out to the defendant. It is necessary, therefore, in order that the charge of falsifier be true and effective, and consequently, that the condition of incompetency through lack of capacity be imposed, that a penalty shall have been imposed upon the person prosecuted. Hence, the charge of falsifier brought against expert Alguero does not comply with the conditions for imposing incapacity account lack of honesty. With regard to expert Arosemena, his incapacity for absence of impartiality has not been proven. Mr. Arosemena does not come under any of the conditions imposed by article 789 of the Judicial Code because the grounds therefor alleged, that of being an employe of one of the actors, does not appear as proven in the suit, by reason of the fact that witnesses Muller make reference to the company La Esperanza, composed of Domingo Diaz Arosemena and Carlos W. Muller, and expert Arosemena manages said business, that does not imply the character which, as an employe of Domingo Diaz Arosemena, is given to him because the latter is distinct from the commercial firm the same as is distinct the property of each of the partners composing the firm; but even admitting the challenge of the experts, and con-

sidering it as proven, that neitheer takes from the suit the proof that the lands, the subject of the suit, are enclosed, in the lands of Lo de Caceres, and have been taken by the defendant, because the experts appointed by the defendant accept in toto the conclusions of experts Alguero and Arosemena, agreeing with what they set forth. "The ownership of Diaz Arosemena to the land in discussion is unquestionable. The titles introduced in the trial so show, and make clear his right to invoke prescription as an acquisitive means of said ownership, since in good faith and in accordance with the old titles of 'Lo de Caceres' and 'Mata Redonda', Gen. Domingo Diaz acquired the former property, from whom he held the ownership thereof. The recording of said titles gave to him the registered possession, strengthened by the material possession held by the old owners of the property sold, and to this possession there is added the possession of the Diaz Arosemena family following the death of Gen. Domingo Diaz, its assign. Wherefore, the Court administering justice on behalf of the Republic and by authority of the law, finds that the piece of land comprised within a visual straight line, which
652 starting from the summit of the hill Mocambo, extends in a northwesterly/southeasterly direction up to meeting the boundary line between the Canal Zone and the Republic of Panama, always seeking the Mata Redonda, (round bush), or Pena Hueca, (hollow rock), which is alongside the ruins of the chapel of Mata Redonda; following the line of the Canal Zone to the road of Lucha Franco, this road to the stream La Tesorera, and from this point a straight line to the starting point, or, in other words, the summit of Mocambo,—forms an integral part of the property 'Lo de Caceres', belonging to Domingo Diaz Arosemena, Elisia Arosemena de Diaz and Isabel Diaz de Jimenez. The

line from Mocambo to the Canal Zone is the western boundary of the said piece of land; the Canal Zone is the southwestern boundary; the Lucha Franco road is the eastern boundary; and the line from La Tesorera to Mocambo is the northern boundary of said piece of land; and orders the defendant, Guillermo Patterson to refrain from disturbing the actors in the ownership and possession of said piece of land, and orders the Registrar to cancel the registration of property No. 241 on folio 130, volume 9, of the Panama Section, insofar as same is in conflict with this judgment. "The Court costs are a charge against the defendant, and the attorney's fees are taxed in the sum of two hundred and fifty balboas. The Court costs shall be taxed by the Clerk of the Court. "Let copy be made and notice issue.—E. Fernandez Jaen—F. Guardia H., Clerk.

The judgment transcribed is a study responding with fidelity to the facts demonstrated in the lower Court and strengthened in the second period of the lawsuit. It appears of record that actually from the time of Pedro Miro the properties called "Lo de Caceres" and "Mata Redonda" were bounded by a line starting from the Mata Redonda (round bush) and ending at the hill Mocambo. It has been argued in this Court that the Mata Redonda, not belonging to Miro, but to Miro's wife, the said change of boundaries under which Miro sold Lo de Caceres to Jose Garcia de Paredes produced a lawsuit between Josefa Miro, daughter of the vendor, and the vendee, Garcia de Paredes, to the end that the latter restore to the former the portion of land which the indicated change of boundaries took away from Mata Redonda to the benefit of Lo de Caceres, and that this suit terminated with a judgment, of which the judgment figuring on folios 298 bis to 300 of the principal record of this suit is said to be a copy.

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653 It is further stated that since the said judgment decides the same point now under discussion, the judgment forms the basis of the plea of res judicata. But aside from the fact that the copy of the presumptive judgment lacks a proper authentication making it unobjectionable, the judgment in itself does not destroy the legal fact that, dating from one thousand eight hundred and ninety-five, at which time the property called Lo de Caceres was sold at public auction, this property was recorded in the Public Registry under the boundaries given by Miro some years previous, without said title being contradicted by a later registration dating from the said registration, outside of the re-registration of the title of Patterson in the new Property Registry. And the said presumptive judgment signifies nothing for the legal effects of the registration in the Registry of the public sale proceedings of one thousand eight hundred and ninety-five, because judgments with respect to real property only cause to be determined the owner of same, the same as any other legitimate title, whence, once these judgments are recorded, if a title conflicting therewith is recorded later, and the time being run for the acquisition by prescription of the property whose owner was indicated by the judgment, the prescription produces its effects. So, then, in the year one thousand eight hundred and ninety-five, some years after the acquisition by Patterson of the Mata Redonda, and the recording of the title of Patterson in the Old Property Registry, there was recorded in favor of Carolina Lewis de Garcia de Paredes the proceedings by which said lady sold at public auction the property of Lo de Caceres under boundaries which start from La Mata Redonda, (the round bush), in a straight line to the limits of Mocambo. This registration was in conflict with the registration theretofore made of the title of Patterson of one thousand eight hundred

and ninety-one, registration which, although conflicting and without the last title proceeding from the proprietor, according to the former title, was at that time permitted by law. Wherefore, dating from one thousand eight hundred and ninety-five, Catalina Lewis de Garcia de Paredes and those holding under her (derivatarios) commenced to prescribe ordinarily as against Patterson the portion of land englobed in favor of the property Lo de Caceres by the boundary which in one thousand eight hundred and thirty-two Pedro Miro had drawn, and by which the public sale was made in one thousand eight hundred and ninety-five. And this being so the plaintiffs Diaz Arosemena have today to their ad-
654 vantage, and not Patterson, the plea of ordinary prescription alleged by both parties; because it is evident that no one prescribes against one who has followed said person in the registration of a title executed under legal formalities, but that, on the contrary, it is the owner of the last title recorded who can acquire by ordinary prescription that which was theretofore recorded in favor of a third party from whom he does not derive the ownership title. (Art. 2525 of the old Civil Code). This happens because prescription is one of the means of acquiring things which have not a known owner, and also the means of extinguishing the ownership and obligations belonging to another, to such an extent that the true owner loses by prescription his right, acquiring the thing the person who in good faith acquires a title in due form and records it, and so if in one thousand eight hundred and thirty-two Pedro Miro separated from Mata Redonda, belonging to his wife, the piece of land now in dispute, in order to include it in the property of Lo de Caceres, belonging to him, with the registration of the title of that date in favor of Rafon Garcia de Paredes, the latter began to prescribe as against the wife of Miro the

ownership of the piece of land segregated, unless it be true that there did take place the alleged lawsuit between Garcia de Paredes and Mrs. Josefa Miro, widow of Gomez, and that said lawsuit had been brought in time to interrupt the prescription period; if in one thousand eight hundred and ninety-one Patterson acquired and recorded his title by boundaries which took from the property of Lo de Caceres a part of that which Garcia de Paredes had acquired from Miro, Patterson would have prescribed against Garcia de Paredes if his title had continued without contradiction during the legal period for the purpose of acquiring by ordinary prescription, and, lastly, there having been recorded in one thousand eight hundred and ninety-five the public sale proceedings in favor of Carolina Lewis de Garcia de Paredes, which contradicts the title of Patterson, and restores the boundaries of both properties, the same agreeing with the boundaries given by Miro in one thousand eight hundred and thirty-two. With this new registration there was initiated in favor of said lady and against Patterson the acquisitive prescription of the globe of land which, according to the exempted crown lands, formed part of Pena Hueca and not of Lo de Caceres. And since, dating from one thousand eight hundred and ninety-five up to the establishment in one thousand nine hundred and thirteen of the new Public Registry, no title has been recorded contradicting the title now
655 figuring by successive traditions of ownership in favor of plaintiffs Diaz Arosemena, it is plain that acquisitive prescription is in favor of these plaintiffs. The legal status of these titles thus remained until the establishment of the new Public Registry in one thousand nine hundred and thirteen, when the plaintiffs recorded theirs, and later the title of the defendant. But this new phase of the question does not conduce to con-

clusions contrary to the former conclusion because neither, as stated by the Judge of the lower Court, the later re-registration by the defendant of his title of ownership obtains for him any other right than that which he theretofore could have inasmuch as Art. 15 of the law on the subject opposes that, and which was in force at the time, nor, although such circumstance did not enter into the question, the time which the re-registered title of Patterson would require for ordinary prescription has not begun to run. Defendant Patterson urges the pleas of res judicata, prescription of the action, and acquisitive prescription of ownership. With regard to the first plea, that is, the plea of res judicata, it is necessary to agree that there do not exist the necessary elements for it to be tenable, since the existence thereof has not even been proven, as the irregular manner in which this plea has been attempted to be proven, introducing in the argument a document extemporaneously and without any autentication whatever, and consequently without any legal force, makes the plea inadmissible from every point of view, and, therefore, it is overruled. With regard to prescription of the action, which has been invoked, it likewise does not lie in his favor, because the right to prescribe in this case is in favor of the plaintiffs, who, considering the continuous possession given them by the titles of ownership recorded in their favor, are the owners as long as the contrary be not judicially declared. And so, therefore, ordinary prescription does not exist, and with much less reason can there exist extraordinary prescription, subsidiarily invoked. The other plea, acquisitive prescription of ownership; the former plea not existing, it is impossible for this latter plea to exist. The defendant has endeavored to show the continued occupation of the piece of land in dispute for a lapse of time sufficient to produce such pre-

scription, and for that purpose some testimonial proofs have been introduced, but it is necessary to bear in mind that said proofs have been countered by others of the same nature introduced by the opposite side, which shows that the material occupation on the part of Pat-
656 terson has been intermittent, at intervals in isolated portions and for an indeterminate time. This by no means can give him the right to prescribe. In view of the considerations herein, the Supreme Court, administering justice on behalf of the Republic and by authority of the law, finds that the exceptions opposed have not been proved, and it is ordered that the recorded title of the defendant be rectified in all particulars where it is in conflict with the judgment of the lower Court, which judgmer , with the amendment stated, is affirmed. The costs, which are a charge against Patterson, are taxed in this Court in sixty-two balboas and fifty hundredths (B./62.50), in accordance with the fee tariff agreed upon by the lawyers of the Capital. Let notice issue, copy be made, publication had, and remittitur made. (Sgd.) E. Urratia Diaz.—(Sgd.) M. A. Grimaldo B.—(Sgd.) Man'l A. Herrera L.—(Sgd.) Juan Lombardi—(Sgd.) Samuel Quintero C.—Hermogenes Casis, Acting Clerk.

I hereby certify: That in order to notify the interested parties of the judgment inserted an edict has been posted in a public place of the Clerk's office this the eighteenth day of May, one thousand nine hundred and twenty at two o'clock in the afternoon.

(Sgd.) CASIS, Acting Clerk.

Edict: In the ordinary suit brought by Domingo Diaz A. in his name, and in that of Elisia A. de Diaz and Isabel Diaz de Jimenez, against Guillermo Patterson, Sr., the following judgment has been entered:

"Whereas: .....
"in view of the considerations herein, the Supreme Court, administering justice on behalf of the Republic and by authority of the law, * * * finds that the exceptions opposed have not been proved, and it is ordered that the recorded title of the defendant be rectified in all particulars where same may be in conflict with the judgment of the lower Court, which judgment, with the amendment state, is affirmed. The costs, which are a charge against Patterson, are taxed in this Court in the sum of sixty-two balboas and fifty hundredths (B./62.50), in accordance with the fee tariff agreed upon by the lawyers of the Capital.

"Let notice issue, copy taken, publication had, and remittitur be made.—E. Urrutia Diaz.—M. A. Grimaldo B.—Majuel A. Herrera L.—Juan Lombardi.—
657 Samuel Quintero C.—Hermogenes Casis, Acting Clerk."

In order to notify the interested parties of the judgment inserted this edict is posted in a public place of the Clerk's office this the eighteenth day of May, 1920, at two o'clock in the afternoon.

(Sgd.) HERMOGENES CASIS,
Acting Clerk.

The time for the posting thereof having expired, I remove it and attach it to the record at three o'clock in the afternoon of this the 19th day of May, 1920.

(Sgd.) CASIS, Acting Clerk.

Panama, October 2, 1920.
A copy.

(Sgd.) D. JIMENEZ, A.,
Clerk. (Stamp seal).

Ismael Ortega B., First Judge of the Circuit of Panama, Certifies: That the foregoing signature reading "D. Jimenez A" is the true and genuine signature of the present Clerk of this Court. In witness whereof he issues the present certificate this the eighth day of April, 1921.

(Sgd.) I. ORTEGA B.

Eusebio A. Morales, Secretary of the Treasurer, in charge of the office of Government and Justice, Certifies: That the foregoing signature reading "I. Ortega B." is the true and genuine signature of the present First Judge of the Circuit of Panama, in the lawful discharge of his duties.

Done in the City of Panama the 9th day of the month of April, 1921.

(Sgd.) EUSEBIO A. MORALES.

(Stamp seal) (Two fee stamps).

The undersigned, Sub-Secretary of Foreign Affairs, Certifies: That the foregoing signature reading "Eusebio A. Morales" is the true and genuine signature of the Secretary of Government and Justice.

Done in Panama the 9th of April, 1921.

(Sgd.) JULIO LAFFARGUE.

(Stamp Seal.)

Canal Zone, Isthmus of Panama.

I, Jno. H. Smith, Acting Executive Secretary for The Panama Canal, in charge of the Seal of the Gov-
658 ernment of the Canal Zone, certify that Julio Laffargue is, and was on the 9th day of April, A. D., one thousand nine hundred and twenty-one, the duly appointed Sub-Secretary of Foreign Relations of the Government of the Republic of Panama and that his signature as written on the reverse hereof is true and genuine.

Witness my hand, and the Seal of the Government of the Canal Zone, this sixteenth day of April, A. D., one thousand nine hundred and twenty-one.

(Seal) (Sgd.) JNO H. SMITH.

Treasury of the Public Registry.
Panama, Oct. 18, 1920.
Registry fee received, B/0.25.
The Treasurer,
(Sgd.) M. MIRONES H.

Office of the Public Registry.

The foregoing document was recorded in the Property Registry Panama Section, the 23rd day of June, 1920—Volume nine—Folio 590—Property 241—Entry four—Fees, B. twenty-five hundredths.—Panama, Oct. 18, 1920.

(Sgd.) C. MARQUEZ Y.,
(Stamp seal) Chief of Section.

Benjamin Quintero Alvarez, Chief of the office of Public Registry, Certifies: That the foregoing signature reading C. Marquez Y. is the true and genuine signature of one of the chiefs of section of this office.

Panama, April 9, 1921.
(Sgd.) B. QUINTERO A.
(Stamp seal).

Eusebio A. Morales, Secretary of the Treasurer, in charge of the office of Government and Justice, Certifies: That the foregoing signature reading "B. Quintero A." is the true and genuine signature of the present Chief of the Public Registry, in the lawful discharge of his duties.

Done in Panama the 9th day of the month of April, 1921.

(Sgd.) EUSEBIO A. MORALES.

(Stamp seal).

(two fee stamps).

The undersigned, Sub-Secretary of Foreign Affairs, Certifies: That the foregoing signature reading
659 "Eusebio A. Morales" is the true and genuine signature of the Secretary of Government and Justice.

Done in Panama the 9th of April, 1921.

(Sgd.) JULIO LAFFARGUE.

(Stamp seal).

Canal Zone, Isthumus of Panama.

I, Jno. H. Smith, Acting Executive Secretary of The Panama Canal in charge of the Seal of the Government of the Canal Zone, certify that Julio Laffargue is and was on the 9th day of April, A. D., one thousand nine hundred and twenty-one the duly appointed Sub-Secretary of Foreign Relations of the Government of the Republic of Panama and that his signature as hereinabove written is true and genuine.

Witness my hand and the Seal of the Government of the Canal Zone this ninth day of April, one thousand nine hundred and twenty-one.

(Seal) (Sgd.) JNO H. SMITH.

660 PLAINTIFF'S EXHIBIT No. 2.

(This Exhibit is identical with Plaintiffs' Exhibit "A-1").

See page 910 of record.

662 EXHIBIT "A-1" (e).

Judgment rendered in 1841.

Know all men by these presents: according to what has been shown in the evidence and briefs submitted by the parties, it is established that Pedro Miro was Maria Eusevia Ximenes' legal husband and that while she was alive he sold the estate of Lo de Caceres to Mr. Jose Garcia de Paredes, giving him with it all the land to the right hand side of a line from Mocambo to the Mata Redonda. Deed of September 18, 1832, offered in evidence, established an irrefusable privilege in favor of Gregario Gomez, Jr., legal husband to Maria Josefa Miro, plaintiff, who has inherited her husband's legal rights and to whom the property of the said estate has fallen. It has been equally shown by individual questions asked by Manuel Monteral of Pedro Miro that he admitted that Mrs. Jimenez de Miro bought the estate of Mata Redonda with her own (extra) dotal money; therefore, it has been proven that she did have the right to establish the said irrevocable privilege and that Pedro Miro had no right to sell any portion of the said estate without her consent because it is specially forbidden by law 49, Title 5, Part 5—A privilege is a real right and Mrs. Gomez is in actual possession of it; she has therefore the right to revindicate.—She petitions in her pleadings dated February 4, 1840, that Mr. Jose Garcia de Paredes be compelled to give her back all the lands belonging to the estate of Mata Redonda which was clearly described in a judgment dated October, 1790, attached to her petition. Said judgment handed down by Honorable Jusquin Cabrejo in favor of Mr. Luis de la Barrera y Negreyros in a possessory action filed by Mrs. Clara del Carmen Congora in March, 1790, reads

in part as follows: "It is derived from this analysis that the Crown Grant title of Mata Redonda introduced as evidence, may be made to harmonize with the Lo de Caceres Crown Grant, introduced also as evidence as far as the one states that its boundary line on the upper side is drawn from a hill called Gallinazos to the end of Mocambo, and the other Grant states that the line goes to the hill of Sonsonate and that of Gallinazos and from there to Mocambo. It all means that the limits of the Caceres land reach from Sonsonate Hill to the furthest boundaries of Mocambo and thence they
663 return passing in front as Sonsonate Hill to the large Gallinazo Hill. It has also been proven that Captain Luis de la Barrero y Negreyros has rendered to Mrs. Juana Bavarena by means of a written contract, since eleven years ago, the establishments of Algarrobo, Sonsonate and Gallinazos as long as she has been all this time in possession of them as his tenant. It is pertinent to determine, therefore, that Captain Luis de la Herrera y Negreyros is and has been in legal possession of the lands from the furthest boundaries of Mocambo to the Gallinazos Hill and thence to the spot called Mata Redonda, which lands include the establishments of the Algarrobo, Sonsonate and Gallinazos." But there is no accord between the parties regarding the position of the places Mocambo and Gallinazos, as this account Mr. Jose Garcia de Paredes introduced the oral testimony of Mrs. Juana Felis Navarrete, fifty years old, born and brought on Mocambo until of age, according to her own saying, who answered to the second question thus: That she knows the region called Mocambo as she lives at the place called Palace; that it lies within or in the middle of the hills Isleno and Angeles; that it is surrounded by the above mentioned hills and that of Penon and that the spot called Mocambo is a river and

she answers the question thus: Oral testimony given by Mrs. Manuela Pequeno and Mr. Silvestre Gil agree fairly well with the above testimony. Oral testimony introduced by Mrs. Gomez through witnesses Jose Maria Chiari, Jose Pablo Arce, Andres Avelino and Juan Berroa agree also with it except that they state that the river is called Manteca or Mocambo and that it starts at the Penon Hill. From the above evidence it is clear that the Honorable Court when explaining the Crown Grants fixed as the furthest boundaries of Mocambo a spot at the foot of Penon Hill where the Manteca or Mocambo river starts. When Jose Maria Chiari answered under oath the questions presented by Mrs. Gomez he said in answer to the second that he knows the region called Gallinazos because his aunt Mrs. Juana Bavarena rented it when he was a child; that it is a mountainous hill which lies very close to Sonsonate Hill, somewhat southeast of it, where Captain Luis de la Herrera y Negreyros had placed a flag, for which reason some times it was referred to as the hill
664 of the Flag (Cerro de la Bandera); that it can be seen to the right of the road when going from this City to Portobelo; that he also knows other Hills with that name; that there is a large one towards La Conception Estate, and another with a rock on top which lies within the region known as Algarrobo; which can be seen also from the road toward the left hand side when going to Portobelo and he answers the questions asked thus: The rest of the witnesses answer in a like manner with little difference in the wording. Paredes' witnesses do not agree among themselves. According to the title introduced as evidence by Paredes which was the same one introduced by Mrs. Gongera de Caceres and the oral testimony accumulated by both parties it is clear that the Gallinazos hill referred to in the

above mentioned judgment lies to the southeast of the Sonsonate Hill. As Mrs. Gomez' right is clear, and as those points in the executed judgment introduced which were in issue have been determined, and administering in justice in the name of the State, and by authority of the law Mr. Jose Garcia de Paredes is hereby ordered to return to Mrs. Miria Josefa Miro, widow of Gomez, within six days, the land of Sonsonate, Algarrobo and Gallinazos included within the boundary line that come out of the headwaters of the Manteca or Mocambo River, next to the Itsleno, Angeles and Penon Hill, and goes thence to the Gallinazos hill which is to the southeast of the Sonsonate Hill and thence to the spot called Mata Redonda, and it is likewise ordered and decreed that this judgment be registered after it has been executed. Let the expense of the law suit be paid by the parties as they have expended it and common costs be paid by equal portions between the parties.

Manuel Arce. This judgment has been handed down and signed by Dr. Manuel Arce, Illustrious Judge of Read Estate. Panama, June 7, 1841. Jose de los Santos Correoso. In Panama, on the 8th day on the same month and year I made it known to Mr. Jose Garcia de Paredes in the office. Garcia de Paredes. Correoso. On the same day I made it known to Mr. Manuel Monteral out of the Court. Monteral. Correoso. I immediately notified to Mrs. Josefa Miro at home. Miro. Correoso. Know all men by this presents, this judgment is already executed by provision of the law and because no appeal has been taken from it.

665 Manuel Arce. This ruling has been handed down and signed by Dr. Manuel Arce, Illustrios Judge of Real Estate. Panama, June 14, 1841. Jose de los Santos Correoso.

666 EXHIBIT "A-2" (g) and (1).

The undersigned, Notary Public Number One of the Circuit of Panama, at the verbal request of Guillermo Patterson, Junior, certifies: that in the archives of the Notary Public Number One, he has not found any document showing that there has been probate proceedings of Jose Maria Garcia de Paredes, nor that there has been protocolized in this Notarial Office said proceeding; that he has found protocolized the probate proceedings of Jose Garcia de Paredes, in which by order of March 9, 1906, Volume 7, page 17, it is found that there are declared to be his heirs his legitimate children: Jose Ismael, Saul Saturino, Elida Maria de los Dolores, Gustavo de las Mercedes, and Jose Maria Garcia de Paredes.

Panama, October 26, 1918.

(Sgd.) FRANCISCO A. FACIO.

(Certificates authenticating signatures follows):

Archibald Boyd, Notary Public Number Two of the Circuit of Panama at the verbal request of Guillermo Patterson, Junior, certify: that in the probate record existing in Notary Number Two from the year 1867 up to the present year 1919, there does not exist any probate proceedings of Mr. Jose Maria Garcia de Paredes.

In testimony whereof I issue the present certificate in Panama, today, the 27th day of September, 1918.

(Sgd.) ARCHIBALDO BOYD.

(Seal)

667 EXHIBIT "B-1" (13, 14, 15, 16 and 17.)

In the City of Panama on September 18th, 1832.

Before me, the undersigned and numbered Notary Public of this Province, and before witnesses that will be mentioned, appeared Mr. Manuel Monteral of this City and Commerce as attorney for Mrs. Maria Eusevia Ximenez who resides in Chepo, and exhibiting before the undersigned Notary Public a Special power of Attorney which she has given him for this transaction and which is inserted in this instrument, he stated: That he makes it known through these presents that Mrs. Maria Eusevia Jimenez de Miro owes Mr. Gregorio Gomez, Jr., eighteen hundred dollars, current money which she has received from him to pay back at the stated period of three years which began to be counted since July 30th, of the present year; that her obligation is to pay six per cent., as commercial interest during the last two years of the stated period. That he also makes it known and admits that to answer for said obligation she has mortgaged to him the estate known as Mata Redonda and since the said estate is owned solely by her because she bought it herself with her own extra dotal money, (con su dinero dotal) she has not authorized any one not given power of attorney to anybody to use in trade the said estate whether she be absent, alive or dead; on this account no one, not even myself would have the right to sell, mortgage, divide or diminish it in any way even with the creditor's consent if in the meantime said mortgage has not been paid up; this being a privilege which she wishes to establish of her own free will, and if any one should ever violate it, such an act will be null and void as performed against the true owner's will and against a covenant not to sell

mortgage or diminish it, and Mr. Gregorio Gomez, Jr., the mortgagee, or whoever may represent his legal rights, will have the right to take it away from whomsoever may be wholly or partly in possession of it even if it shall have passed to third, fourth, or further possessors. The power of attorney states exactly as follows: Be it known that I Maria Eusevia Ximenez make it known through these presents that I hereby give Mr. Manuel Monteral of Panama, as ample and sufficient power of attorney as in law may be required to bind me through an instrument to be executed in my name, to admit that I owe Mr. Gregorio Gomez, Jr., eighteen hundred dollars and that I am under obligation not to mortgage, diminish nor dispose in any way whatsoever of my estate of Mata Redonda, bought by myself with my own extra dotal money (con mi dinero dotal) and that I have mortgaged it to him, establishing a lay privilege in his favor during my life or after my death and to make all statements required by law to make the instrument valid. This power of attorney has been executed in the parish of Chepo on the twelfth day of September, 1832; and the giver of this power of attorney whom I, the Judge second substitute in actual discharge of duty, in this Parish, certify that I know, thus stated and signed these presents with Messrs. Manuel Jose Dutary and Juan de Dios Chanis as witnesses: Maria Eusevia Ximenez. M. J. Dutary. Juan de Dios Chanis.

668

Before me—Je. Maria Lopez.—The above inserted power of attorney is an exact copy of the original; and therefore the maker of this instrument, whom I, the undersigned and numbered Notary Public of this Province vouch that I know, in testimony thereof, so stipulates and and signs with the witnesses Messrs. Manuel Maria Garcia de Paredes, Pedro Hurtado and Jose Ventura

Calvo, residents appearing after citation and special request.—Manuel Monteral.—J. Rudo Patino.—Notary Public of this Province.

This copy which I issue on one sheet legal cap at the request of Mr. Guillermo Patterson, Jr., in Panama, the 9th day of November, 1920, agrees with the original thereof.

(Sgd.) ALFONSO FABREGA,
Notary Public No. 1.

(Stamp seal)

669 EXHIBIT "B-1" (7, 8, 9 and 10).

To Municipal Alcalde No. 2:—Jose Garcia de Paredes, a native and resident of this place, before you, for whatever may be proper in law, I appear and state: That it is to my interest and right that you kindly interrogate citizens Juana Felis Navarete, Manuela Pequeno and Silvestre Gil on the line of the following points: 1st. That they state their business and in what they are engaged. 2d. That they state if they know the point called Macombo, where it is, what places surround it or are opposite, and if it is a hill, stream, or river. 3d. That they state the place where they were born, and the place where they were raised until becoming of age, and what reasons they have for correctly knowing the point of Mocambo. 4th. If they know whether there is another point called Mocambo besides the point stated by them. 5th. In conclusion, that they state their ages, and if in connection with me the generalities of the law pertain to them, and upon same being accomplished the original be returned to me for the ends suitable to my interests, and I request a compliance with my petition, which is justice that I ask. Jose Garcia de Paredes.

As requested, refer the matter to the First Parochial Alcalde of the Interior—Arango.

The matter was referred by Dr. Augustin Arango, Municipal Alcalde, Second Substitute, in charge.—Panama, May 7, 1833.—J. Rudo Patino.—In Panama on said day, month and year I notified Mr. Garcia de Paredes of the foregoing order.—Garcia de Paredes—Patino. In Panama on the same day, month and year I notified the First Parochial Alcalde of the Interior, Francisco Alvarado, at his home. of the foregoing order.—Alvarado.—Patino.—In the city of Panama on the said 7th day of May, 1833, the first parochial Alcalde of the Interior, Francisco Alvardo, in compliance with the foregoing order, before me, the Notary, took the oath of Juana Felis Navarrete of this place, which he did in the name of God, our Lord, and a sign of the cross, according to law, under the solemnity of which she promised to speak the truth in what she might know and on which she might be questioned, and being examined on the tenor of the questions of the petition aforesaid, according to her understanding, she replied as follows:—To the first she stated: That she is by profession a tiller of the soil, in which occupation she is engaged, as is well known. To the second she stated: That she knows, (as she lives at the place called Palacios), the point called Mocambo, which is located inside between the hills of Istleno and Angeles; that
670 there surrounds the same the said hills and the Penon hill, and that very point of Mocambo is a river. To the third she stated: That the witness was born and raised in the said place Mocambo until becoming of age, by reason whereof, and the knowledge she has acquired, she had correctly designated the said point of Mocambo. To the fourth she stated: That she does not know, nor has any knowledge of any other place called

Mocambo besides the point stated. To the fifth she stated: That she is fifty years of age, and that the generalities of the law in connection with the interrogator do not apply to her. That what she has stated and testified to is the truth by virtue of the oath taken, and her testimony being read to her she affirmed and ratified the same, and did not sign by reason of not being able to write, the Parochial Judge signing for her, to which I certify.—Francisco Alvarado.—Jose Rudo Patino.

And thereupon the first parochial Alcalde of the Interior, to whom these proceedings have been entrusted, before me, the Notary, took the oath of Manuela Pequeno of this place, which she did in the name of God, our Lord, and a sign of the cross, in due form, by virtue of which having promised to speak the truth in all that she should know and questioned upon, she was examined on the questions contained in the preceding interrogatory, and replied as follows: To the first question she stated: That her business is that of making baskets for a living, and in which she is engaged. To the second she stated: That she knows the point called Mocambo which is located within the hills called Istleno and Angeles, being opposite the Peno hill, and that in between the same hills flows the river called Manteca. To the third she stated: That the witness was born and raised in the Caymitillo, a place adjoining Mocambo, until becoming of age, and that Blas Pequeno, the father of the witness, being on intimate terms, with Sebastian Ramos, a resident of the said Mocambo, she used to frequent the house of the latter, by reason whereof she possesses the knowledge which is here set forth. To the fourth she stated: That she does not know, nor has she ever heard of there being any other point called Mocambo outside of the point stated. To the fifth she stated: That she does not know her age, and that apparently she is in the neighborhood

of fifty years, and that the generalties of the law in connection with the interrogator do not appertain to her. That all she has testified to is the truth by virtue of the oath taken, and the testimony being read to her she affirmed and ratified the same. She did not sign
671 owing to not being able to write, and the parachial judge did so for her,—to all of which I certify.—Francisco Alvarado.—J. Rudo Patino.

And thereupon the said first parochial Alcalde of the Interior, Francisco Alvarado, in accordance with the commission entrusted to him, in my presence, the Notary, took the oath of Mr. Silvestre Gil of this place, which he did in the name of God, our Lord, and a sign of the cross, in due form, under the solemnity of which he promised to speak the truth in all that he might know and on which he might be questioned, and being examined in line with the questions of the foregoing interrogatory, according to his understanding, he replied as follows: To the first he stated: That his business is that of tiller of the soil, in which business he is engaged, as also the business of driving mules of burden over the Cruces road. To the second he stated: That he knows the point called Mocambo, which is between the hills called Angeles and Istleno, and that between these same hills flows the river Manteca, which ksowledge he possesses because, working as he does in the bush, he has acquired said knowledge by continual traffic over said places. To the third he stated: That he was born and raised at the place called Mocambo, and that the reasons he has for correctly knowing this point are well set forth according to his statement. To the fourth he stated: That he does not know, nor has he heard, of any other point called Mocambo outside of the point stated. To the fifth he stated: That he is about forty years of age, and that the generalities of the law in connection with the interrogator do not ap-

pertain to him. That all he has stated and testified to is the truth by virtue of the oath taken, and upon his testimony being read to him he affirmed and ratified the same, but did not sign owing to not being able to write, and the parochial judge did so for him, to which I certify.—Francisco Alvardo.—Jose Rudo Patino.

The foregoing agrees with the original thereof, which is contained in pages 50, 51 and 52, and which, inside of a record, have been found in the file of suits corresponding to the year, 1841, and I issue in Panama this copy on the 10th day of the month of June, 1919, for Dr. Guillermo Patterson, Jr., on two sheets of lawful paper.

(Sgd.) ALFONSO FABREGA,
(Seal) Notary Public No. 1.

672 Alfonso Fabrega, Notary Public No. 1 of the Circuit of Panama, Certifies: That the protocols of this notarial office No. 1 have been examined, and there has not been found any suit whatever between Mrs. Maria Josefa Miro and Mr. Jose Garcia de Paredes. There has only been found some testimony requested by Mr. Paredes. Mr. Mariano Sosa, assistant in this office, advises that, at the time of the incumbency of Don Francisco Antonio Facio as Notary, Dr. Guillermo Patterson, Jr., was personally examining the archives and found and showed to him the title page of said suit, which title page it has been impossible to again find at this time.

At the request of said Dr. Gillermo Patterson, Jr., I issue this certificate in Panama this the 10th day of June, 1919.

(Sgd.) ALFONSO FABREGA,
(Seal) Notary Public No. 1.

Narcisco Garay, Secretary of State in the office of foreign Relations, Certifies: That the signature appearing at

the foot of the three attached documents, the first of which is a certificate dated the 10th of June, 1919; the second, copies of some testimony given on the same day; and the third, copy of a deed dated the 18 of September, 1832, and which signature reads, "Alfonso Fabrega"; is the handwriting of said party, who is discharging at the present time the duties of Notary 1 of this Circuit, and is the same signature which said party always uses for all his official acts. The seal appearing thereon is the authentic seal of the notarial office.

In witness whereof I issue this certificate in the city of Panama the 9 day of the month of April, 1921.

(fee stamp) (Sgd.) NARCISO GARAY.

673 Canal Zone, Isthmus of Panama.

I, John H. Smith, Acting Executive Secretary for The Panama Canal, in charge of the Seal of the Government of the Canal Zone, certify that Narciso Garay was on the ninth day of April, A. D. 1921, the duly appointed Secretary of Foreign Relations for the Republic of Panama, and that his signature as above written is true and genuine.

Witness my hand and the Seal of the Government of the Canal Zone, this eleventh day of April, A. D. 1921.

(Seal) (Sgd.) JNO. H. SMITH.

674 EXHIBIT "J."

Republic of Nueva Granada.—1st class Seal. Price two reals.—Fiscal year beginning September 1st, eighteen hundred and fifty-three and ending August 31st, eighteen hundred and fifty-four.

Number three hundred and two.—In the City of Panama, on the twenty-seventh day of July, eighteen hundred

and fifty-four, before me, Marcelino Lopez, Deputy Notary Public, acting Notary Public, during the absence on leave of the principal Notary, personally appeared Messrs. Julian Noriega, in his own name and as curator of his legitimate brothers, who are under age, named Tomas and Manuel B. Noreiga; and Leandro Arosmena, on behalf of his legitimate wife Dominga Noriega and as tutor and curator of the minor Florencia Noriega and as tutor of Juana C. Noriega, all native and residents of this city, of age, and well known to the undersigned Notary Public who attests, and produced the receipt showing that the Registrar's fees provided by the law, have been paid, as is recorded in the document of page 163 of the corresponding folio; they produced also a minute, requesting me to extend, in conformity with the law, a warranty deed for the sale of a farm known as Mata Redonda, which they have sold to Mr. Jose del Carmen Rivera; also the documents referring to the appointment of guardians to said minors. These documents are copies hereinafter and read as follows: Receipt—On the eleventh page of the Register kept in this office for the registration and record of mortgages for this month, the following item is recorded: Seventh day. Number thirty-six. Mr. Luis Urriola paid twenty-six reals as the registrar fees for the warranty deed recording the sale of the farm known as Mataredonda, which Messrs. I. Noriega, Leandro Arosemena, as heirs to their late parents Isidoro Noriega and Manuela Villalobos, have agreed to sell to Mr. Jose del Carmen Rivera, said fees being detailed as follows: ten reals as the fee on the quitrent of two thousand pesos at the rate of three per cent. per annum that lies on said farm; and sixteen reals on the sum of eight hundred pesos which is the price for the sale of said property. Twenty-six reals. B. Cucalon. Luis Urriola. Collector's office for provincial taxes

Panama, July 27, 1854. Bartholome Cucalon. Minute: Mr. Notary Public.—Please insert in the proper register for public instrument a warranty deed for the
675 sale of the farm known as Mataredonda and its lands, which we sell to Mr. Jose del Carmen Rivera. This farm, which is located in the district of Calidonia, in this city, belongs to the estate of Mr. Jose Isidoro Noriega, which we represent, I, Manuela Villalobos as his legitimate widow and the curator of our children who are under age, Jose Julio, Jose Angel, Dominga, as the heirs of the late Mr. Noriega, and we sell this farm and its lands, together with a house made of wood and tile, a chapel made of brickwork, in bad condition, fourteen heads of cattle and the lands comprised within the boundaries which will be expressed hereinafter, with the fruit trees, mountains, creeks, pasture grounds, watering places for cattle and any other objects within the boundaries which are as follows: On the lower side, from the spot called Mata Redonda (round coppice) to the limits of the river Cardenas, including its headwaters and springs; on the bottom, the same river downstream to the junction of the Palangana Creek and to this point coming down a stream with a stone bed which meets the "Palangana" stream, and on the upper side, from the hill called Gallinazos to the furthest boundaries of Mocambo. In this act we acknowledge a redeemable quit-rent of two thousand pesos at the rate of two per cent. (eight real-pesos) which lies on the property, one thousand of which are in favor of the Provincial College and one thousand in favor of Presbyter Fernando Arechua or of the persons to whom they may legally correspond hereafter, and we sell the aforementioned farm and appurtenances for the sum of eight hundred pesos (eight real-pesos) in cash. Mr. Rivera should acknowledge the quit-rent of two thousand pesos together with the corres-

ponding interest from the day he takes possession of the farm and its lands. Said sum of $800 which is the price for the sale is the exact value of the farm, its lands and appurtenances aforementioned as belonging to said farm of Mata-redonda, and should they be worth more, we donate the excess to the purchaser and we desist of any rights we might have upon said farm and lands
676 and appurtenances binding ourselves to the security and eviction of this sale, and should a lawsuit or claim arise over said property, we will attend to it at our own expense until Mr. Rivera is in quiet and peaceful possession of same, and indemnify him for any damage he may have sustained. We renounce to any privilege we might have to claim against Mr. Rivera or his heirs or assigns the ownership of Mata-redonda farm, as we make this sale in due and legal form, without any fraud, deceit or damage for us and in view of the rights we have upon it, as it was owned by our predecessor Mr. Noriega, Jose Isidoro, as has been stated. You will please add, Mr. Notary Public, any other clauses and terms as may be necessary for the validity and security of the purchaser. In my own name and on behalf of my children who are under age, Manuela Villalobos. I. Noriega. Leandro Arosemena. I. Angel Noriega." Power of Attorney.—In the City of Panama, on the twenty-sixth day of May, eigtheen hundred and fifty-four, before me, Manuel de la Barrera y Munos, principal Notary Public for this district, personally appeared Mr. Jose del Carmen Rivera, of age, native and resident of this city and whom I attest I know, who states; that he confers a general power-of-attorney, as fell as may be required or legally necessary, on his legitimate wife Mrs. Maria Marta Rocabado, in order that, representing his rights and actions, she may collect, demand and receive all and any sums of money that may be due to him or might be due to him hereafter;

that he also authorizes her to give the proper receipts to any person making payment in discharge of a debt. He also grants her authority to take care of and administer any properties, real estate or movables, belonging to him, in such way she may see fit, to sell said properties whenever she may deem it advisable, and in the terms she may agree to, in accordance with the instructions he gives her. That he also grants her authority to manage all the business he is now carrying on, to demand, examine and settle any accounts produced before her by any persons having to render accounts to him; that he also grants her authority to grant delays, terms and
677 adjournment to any of his debtors, to conclude with them any transactions she may deem advisable. That he also grants her authority to submit to the decision of arbitrators, referees or friendly arbitrators, any of his affairs, to appoint the person or persons to act as arbitrators or referee or referees and to extend the proper public instrument to that effect, renouncing to any claim on his behalf and binding him to any penalty that may be agreed upon, giving any securities that may be necessary. And were it necessary for her to plead, with regard to the above-mentioned authorities or to any incidents of same, she may occur to the proper authorities with the petition and documents referring to the case; make oath or request other people to make oath, protests, informations; produce evidence, arguments and controversy; request the Court to issue orders for execution, judicial compulsion, sequestration, release, sale or auction of property of which she may take possession or guard; request the extension of any legal terms that may be granted to her or renounce them; recuse or challenge judges, secretaries and any other judicial officials who may have to deal with said affairs, extending their jurisdictions whenever she may see fit; attend to judicial de-

crees and sentences, whether they be definitive or not, abiding by the favorable ones and appealing of the unfavorable ones and seek remedy by all legal ways. That the authority he grants to his legitimate wife, Mrs. Maria Marta Rocabado is the authority that may be required for all purposes above-mentioned or those incident to them or depending on same, with free and general administration, and that he authorizes her to substitute this power of attorney in any person she may trust and to name and appoint other substitutes as many times she may see fit, and the failure to express any clause that should have been included herein shall not invalidate this power of attorney. To this effect the grantor pledges the property he owns now or may own in future, submitting to the proper Courts, jurisdiction and laws. In order
678 to give this instrument the validity required by law, he has paid the registration fees as is shown by the document which reads as follows: "The following item has been registered at the sixteenth page of the Register for recording the registration fees and mortgages—Number fifty-one. Mr. Maximo Martinez paid four reals as registration fee for the power-of-attorney Mr. Jose del Carmen Rivera will grant his legitimate wife Maria Marta Rocabado. Four reals. Maximo Martinez, Collector's Office for provincial taxes. Panama, May the twenty-sixth, eighteen hundred and fifty-four. Bartolome Cucalon" In testimony whereof I issued and signed these presents before the witnesses Messrs. Pedro Tamborrel Paz and Maximo Martinez. Jose del Carmen Rivera. Pedro Tamborrel Paz. Manuel de la Berrera y Munoz. I was present when the deed was extended and after having compared this copy with the original under number two hundred and thirty-seven which is kept in my Notarial register for public instruments for the present year, I deliver these presents on three sheets of stamped paper with the

first class seal, at the request of Mr. Jose del Carmen Rivera, in Panama, on the twenty-sixth day of May, eighteen hundred and fifty-four. Manuel de la Barrera y Munoz. This instrument has been registered in the official register for the district of Panama, on page nineteen of the register book for this year, this day, twenty-ninth of May, eighteen hundred and fifty-four. Lara."—"Domingo Jimenez, Acting Curate of San Felipe Beri, do hereby certify; that in one of the parish books to be found in the Archives under my supervision, in which the certificates of interment are recorded, there has been recorded a certificate reading as follows: Number twenty-five. In the City of Panama, on the first day of June, eighteen hundred and fifty-four, the undersigned, Presbyter Domingo Jimenez, Acting Curate of San Felipe Neri, buried according to the Christian rites the body of Mrs. Manuela Villalobos, widow to the late Isidoro Noriega; she died yesterday after having received the secraments of Penitence and Extreme Unction; in testimony whereof I sign
679 these presents. This copy agrees with the original certificate and, at the request of the interested party, I deliver this certificate, in Panama, on the eighth day of July, eighteen hundred and fifty-four. Domingo Jimenez."—"Mr. Second Judge for this Circuit. The undersigned, Maria Marta Rocabado, legitimate wife of Mr. Jose del Carmen Rivera, duly authorized by him to represent him and to appear before the Court, as may be seen from the power of attorney I enclose herewith with the request that it be returned to me, beg to state respectfully; that a few months ago my husband purchased from Mrs. Manuela Villalobos the farm of Mataredonda but the proper warranty deed was not extended because some of the interested parties who had to sign said deed were absent. In the meantime Mrs. Villalobos died, as may be seen from the accompanying certificate of inter-

ment, before her death she had only signed the warrant for the sale, as also did her son, but, as the other interested parties who were away are now here, I deem it advisable that Messrs. Jose Julian and Jose Anjel Noriega and Mr. Leandro Arosemena, the husband of Mrs. Domingo Noriega, be notified and requested to state plainly whether they ratify the sale made by her mother Manuela Villalobos. Moreover, as there are four minors among them, it seems proper to appoint previously a curator and tutor to said minors in order that he may ratify also the warrant for the sale and sign the warranty deed which is to be extended, as well as Tomas and Manuela Noriega, who are over fourteen years of age and Prudencia and Juana Noriega, who are under fourteen. When these duties shall have been performed, I request the Court to deliver a testimonial thereon, at my expenses, so that it may be inserted in said warranty deed. As this request is only fair, I hope the Court will grant it. Maria Marta Rocabado. Second Circuit Court. Panama, July the first eighteen hundred and fifty four. Let the preceding petition be communicated to Messrs. Jose Julian, Jose Anjel Noriega and Leandro Arosemena. With regard to the other requests contained in said petition, the Court will decide in due time. Garcia de Paredes. Manuel Ojedis, Clerk. The preceding resolution was communicated immediately to Mrs. Maria Marta Rocabado de Rivera. Rocabado de Rivera. Ojedis. It was also communicated to Messrs, Julian, Jose Anjel Noriega and Leandro Arosemena. Noriega. Noriega. Arosemena. Ojedis."—"To the Second Circuit Judge. After having read the preceding petition filed in by Mrs. Maria Marta Rocabado and which has been communicated to us, we beg to state; that we ratify fully the sale of the Mataredonda farm made by our late mother, together with us as may be seen from our signatures which were stamped

by us at the foot of the warrant which was given to the purchaser, so that the corresponding warranty deed may be extended to said purchaser and we may receive the value of the sale which we have not received as yet, also the purchaser has been in possession of the farm since the date the aforementioned warrant was given by the late Mrs. Manuela Villalobos. With reference to the appointment of a tutor and curator for the minors, as our mother who was their tutor and curator according to the law, is dead, and as three of these minors, in view of their age, may appoint said tutor and curator according to their wish, we are certain that they will appoint them as soon as they find it convenient, and as for the minor who is under fourteen years of age, Juana Cristosomo Noriega, the Court may decide whatever they think convenient.— I. Noriega. Leandro Arosemena. Jose Anjel Noriega." Second Court of the First Circuit. Panama, July the fifteenth, eighteen hundred and fifty-four. Mr. Leandro Arosemena is hereby appointed as tutor and curator of the minor Juana Crisostomo Noriega, who is under fourteen years of age. Should he accept said appointment, he shall appear before the Court in order to make the usual oath. The other minors being over fourteen years of age will appoint their curators as they may think fit, after having been notified. Garcia de Paredes. Manuel Ojedis, Clerk. On the same date I notified this act to Mr. Tomas Noriega, who said that he appealed.
681 Tomas Noriega. Ojedis. I notified Mr. Manuel B. Noriega, who said that he will appoint a curator when he may deem it convenient. M. B. Noriega. Ojedis. I notified Miss Florencia Noriega who stated that she would designate in due time the person who is to represent her as her curator. Florencia Noriega. Ojedis. On the same date I notified Mr. Jose Julian Noriega and he stated that he appealed. Noriega. Ojedis. I notified

also Mr. Jose Anjel Noriega, who stated that he appealed. Jose Anjel Noriega. Ojedis. I notified Mrs. Maria Marta Rocabado de Rivera. Rocabado de Rivera. Ojedis. I notified Mr. Leandro Arosemena of his having been appointed as tutor and curator to the minor Juana Crisostomo Noriega and he stated that he accepted said appointment. Leandro Arosemena. Ojedis." Second Court of the First Circuit. Panama.—Panama, July seventeenth, eighteen hundred and fifty-four. Judicial decrees which refer only to the proceedings cannot be appealed of; appeal is therefore denied. Garcia de Paredes. Manuel Ojedis, Clerk. On the same date I notified Mrs. Maria Marta Rocabado de Rivera. Rocabado de Rivera. Ojedis. I notified Mr. Julian Noriega. J. Noriega. Ojedis. I notified Mr. Tomas Noriega, who stated that he appoints his brother, Mr. Jose Julian Noriega, as his curator. Tomas Noriega. Ojedis. I notified Mr. Manuel B. Noriega, who stated that he appoints Mr. Julian Noriega as his curator. Manuel B. Noriega. Ojedis. I notified Mrs. Florencia Noriega, who stated that she appoints Mr. Leandro Arosemena as her curator. Florencia Noriega. Ojedis. I notified Mr. Jose Anjel Noriega. Noriega. Ojedis. I notified Mr. Leandro Arosemena. Arosemena. Ojedis." "Second Court of the First Circuit, Panama, July twenty-first, eighteen hundred and fifty-four. Let Messrs. Jose Julian Noriega and Leandro Arosemena appear before this Court and make the usual oath as curator and as tutor and curator, respectively, to the children of the late Isidoro Noriega and Manuela Villalobos de Noriega, so that they may take charge of their office. Garcia de Paredes. Ojedis, Clerk. On
682 the same date, I notified Mrs. Maria Marta Rocabado de River. Rocabado de Rivera. Ojedis. I notified Mr. Leandro Arosemena. Ojedis. Afterwards, I notified Mr. Julian Noriega. Noriega. Ojedis. "In

the city of Panama, on the twenty-fifth day of July, eighteen hundred and fifty-four, personally appeared Messrs. Jose Julian Noriega and Leandro Arosemena, and before the judge they accepted the appointments conferred on them and, as they swore they would serve faithfully their offices, they were placed in charge of said offices and promised to fulfill all their duties, in conformity with the obligation taken under oath, and they signed the presents together with the judge who attests. Jose Garcia de Paredes. Leandro Arosemena. J. Noriega. Manuel Ojedis, Clerk." "Second Court of the First Circuit, Panama, July twenty-fifth, eighteen hundred and fifty-four. Let the preceding act be communicated to the tutor and curator to the minors. Garcia de Paredes. Ojedis. On the same date I notified Mr. Leandro Arosemena. Arosemena. Ojedis. I notified Mr. Julian Noriega. J. Noriega. Ojedis. I notified Mrs. Maria Marta Rocabado de Rivera. Rocabado de Rivera. Ojedis."—"To the Second Judge of the First Circuit.—The undersigned, tutors and curators to the children of the late Jose Isidoro Noriega and Manuela Villalobos de Noriega, on behalf of said minors, beg to state that we ratify the sale made by our mother, in the same way it has been ratified by those whom we represent, and must observe that Mr. Jose del Carmen Rivera is now and has been for some time in possession of the Mataredonda farm, that is to say from the date he was granted a warranty deed, and it is not our fault if the value of said farm has not been paid to us until now, and as this in detriment of minors, we beg to inform the Court, so that it be resolved that the purchaser should indemnify us for the accrued interest during the time the money has been in his hands, and we beg to state that we are ready to sign the warranty deed as soon as we receive the price of the sale and accrued interest. This is the answer we give to the communication of

683 the Court. Leandro Arosemena. J. Noriega."
Second Court of the First Circuit, Panama. July twenty-fifth, eighteen hundred and fifty-four. Let it be communicated to the claimant, Mr. Rivera's wife. García de Paredes. Manuel Ojedis, Clerk. On the same date I notified Messrs. Leandro Arosemena and Julian Noriega.—Noriega.—Arosemena. Ojedis. I notified Mrs. Maria Marta Rocabado de Rivera. Rocabado de Rivera. Ojedis. "To the Second Judge of the First Circuit. The undersigned, Maria Rocabado de Rivera in reply to the communication made to me by the Court of the petition sent is by the tutors and curators of the children of the late Jose I. Noriega and Manuela Villalobos, beg to state: that I do not object to paying the accrued interest on the sum agreed for the sale of the farm of Mataredonda, and the Court may request said tutors and curators and Mr. Jose Anjel Noriega to receive the said sum agreed to for the sale of said farm, and the accrued interest. I beg also to order that a testimony of these proceedings be delivered to the undersigned, at my own expense, that the power of attorney I sent in be returned to me and that the Court consider these proceedings as closed so that the proper deed be extended immediately as one of the persons who has to sign it is preparing to leave the country. Maria Marta Rocabado de Rivera."—"Second Court of the First Circuit of the Province of Panama. Panama, July twenty-sixth, eighteen hundred and fifty-four. One of the ways by which a lawsuit may be ended being the agreement of the interested parties upon the matter under discussion, it is evident that Mrs. Maria Marta Rocabado de Rivera acknowledges the claim presented by the heirs of the late Mrs. Manuela Villalobos against her husband Mr. Jose del Carmen Rivera for the value and accrued interest of the farm of Mataredonda which was sold to him. Therefore these proceedings for

the granting of the warranty deed should be closed and the testimony which has been requested should be issued so that it may be inserted in said warranty deed; the power of attorney should also be returned after
684 leaving a copy and note of its having been returned. After the granting of the deed and the payment of the sum agreed to for the sale with the accrued interest, a judicial receipt shall be given for same. Garcia de Paredes. Manuel Ojedis, Clerk. On this date I notified the preceding act to Mrs. Maria Marta Rocabado de Rivera. Rocabado de Rivera. Ojedis. I notified Mr. Jose Julian Noriega. Noriega. Ojedis. I notified Mr Leandro Arosemena. Leandro Arosemena. Ojedis. I notified Mr. Jose Anjel Noriega. Noriega. Ojedis."—"The preceding copy agrees with the original power of attorney and other documents which form the proceedings inchoated by Mrs. Maria Marta Rocabado de Rivera to obtain from the heirs of Mrs. Manuela Villalobos the granting of a warranty deed in favor of her husband Mr. Jose del Carmen Rivera for the sale of the Mataredonda farm. I deliver these presents to said lady in view of the decision of the Court. Panama, July twenty-sixth, eighteen hundred and fifty-four. Manuel Ojedis, Clerk."

In view of the foregoing, the granters Messrs. Julian Noriega, in his own name and as the curator of his legitimate brothers Tomas and Manuel B. Noriega, and Mr. Leandro Arosemena for his wife Mrs. Domingo Noriega and as the tutor and curator to the minors Juana C. Noriega and Florencia Noriega, state: first, that they have not previously sold, transferred or pledged the said farm of Mataredonda; second: that said farm has no other liens that the aforesaid liens referred to in the minutes which has been previously inserted; third: that they sell it with all its appurtenances for the sum of

twenty-eight hundred pesos (8/10 pesos), thus: one thousand eight-real pesos which represent the value of a quit-rent in favor of the Provincial College; one thousand pesos which represent the value of a quit-rent in favor of Presbyter Fernandez Arechua, both quit-rents at the rate of three per cent. per annum, and eight hundred pesos they received in cash; fourth: that the exact price of the farm and its true value is two thou-
685 sand eight hundred pesos as aforementioned, and should it be worth more, they donate to the purchaser the excess value. Fifth: that from this date they dispossess themselves of, desist from and transfer the dominion, ownership and property and any other rights they may have upon said farm, and grant, renounce and transfer all of it to the purchaser together with the corresponding actions. Sixth: that they confirm on the said purchaser all the necessary authority in order that he may take possession and dominion of said farm, the copy of this warranty deed being a sufficient title for it. Seventh: that this sale is certain, sure and effective for the purchaser and that in case he were disturbed or molested in the possession or dominion of said farm by any persons claiming a right to the property, they or their heirs or assigns shall give him full security and eviction in conformity with the law. Eighth: that they renounce to the exception which refers to money not delivered, and also any rights and actions the law may confer upon them to claim against the validity of this sale. Mrs. Maria Marta Rocabado de Rivera, of age, native, and resident of this city, married, whom I attest I know, in view of the power-of-attorney which has been previously inserted, extended to her by her husband, Mr. Jose del Carmen Rivera, stated: that she will fulfil the duties which this contract imposes upon her and pay in due time the interest on the afore

mentioned quit-rents for two thousand pesos that lie upon the property; that she renounces to any rights, actions and exceptions granted to her by the law and which she might use against the validity of this contract. This instrument having been read to the interested parties, all of them stated that they approved same and signed it before the witnesses, Messrs. Pedro Tamborrel Paz and Maximo Martinez, who sign with the undersigned Notary Public who attest. It was said that a copy of this deed must be delivered to the purchaser who shall have it recorded at the Registrar's office within twenty days from this date. The grantors
686 stated that they have received the accrued interest on the value of the farm from the first of May to this day, and they sign with the undersigned Notary Public who attest.—J. Julian Noriega. J. Noriega. Leandro Arosemena. Maria Marta Rocabado de Rivera. Pedro Tamborrel Paz. Max Martinez. Marcelino Lopez." I was present when the foregoing warranty deed was extended and after having compared this copy with the original instrument which is to be found in the Register for public instruments for this year, I extend same on fourteen sheets of stamped paper with the first class seal, at the request of Mrs. Maria Marta Rocabado de Rivera, in Panama, on the thirty-first day of July, eighteen hundred and fifty-four. (Signed) Marcelino Lopez.

The foregoing instrument has been recorded on the Register book for the district of Panama, on page 26, on the first day of August of the year eighteen hundred and fifty-four (Signed) Jose Lara.

In the City of Panama, on the twenty-third day of June of the year eighteen hundred and fifty-five, before me, Manuel de la Barrera y Munoz, principal Notary for this Circuit, personally appeared Mr. Mariano Arose-

mena, Administrator General of Provincial Taxes, of age, whom I attest I know, and stated; that on the twenty-first day of this month Mr. Jose del Carmen Rivera deposited with his office the sum of two hundred and forty pesos gold for the purpose of redeeming the quit-rent for eight hundred pesos which lies on his property known as Mataredonda in favor of the Provincial College, at the rate of three per cent per annum. That before doing this transaction he occurred to the Governor of this province who decreed that this transaction should be carried out; that in view of this decree he requested the political authorities to instruct the undersigned Notary to extend this deed and to cancel the deed in which said quit-rent was acknowledged. In view of the aforesaid instructions, as they appear from the documents
687 hereinafter inserted together with the document attesting that the registrar fees have been paid. Said documents read as follows: "I, the undersigned Administrator General of provincial taxes, certify: that Mr. Jose del Carmen Rivera has paid to this office the sum of two hundred and forty pesos gold to redeem a quit-rent of eight hundred pesos which lies on the farm of Mataredonda at the rate of three per cent in favor of the Provincial College. The transaction was done at the Treasurer's office in accordance with arts. 4 and 5 of the Ordinance of October seventh, referring to taxes, as is expressed in the petition sent in by Mr. Rivera to the Governor's Office on the twentieth inst. when the redemption was accepted. Therefore, in conformity with the aforementioned Ordinance of the provincial legislative body, the farm of Mataredonda is now free from the redeemed lien and the owner is exempted from said charge. In testimony whereof I issue these presents.—Administrator General's Office for provincial taxes. Panama, June twenty-first, eighteen hun-

dred and fifty-five.—Mr. Arosemena." "To the political authority of this Department. By means of the undermentioned Certificate delivered by the Administrator General of provincial taxes I prove that I paid to the Administrator's Office the sum of two hundred and forty gold pesos, to redeem the quit-rent for one thousand 8/10 pesos which lied on my farm of Mataredonda at the rate of three per cent. per annum. In view of said document I beg you to give instructions so that the deed in which said quit-rent was acknowledged be cancelled. Panama, June twenty-second, eighteen hundred and fifty-five. J. del C. Rivera." "Political authority for the capital district. Panama, June twenty-second, eighteen hundred and fifty-five. In view of the certificate issued by the Administrator General of provincial taxes referring to the payment made to the Treasurer of the sum which corresponds to the capital to be redeemed, the Notary Public shall proceed to extend a deed cancelling abovementioned quit-rent, in conformity with the law. The Political Governor, Pacheco.

688 Manuel Ma. Olazagarre, Clerk." The following item has been recorded on page nine of the Register book of accounts for the present month: Twenty-third. Number twenty-five. Mr. Manuel de la Barrera y Munoz paid fifty cents as the registration fee for the deed referring to the cancellation of the quit-rent which lied on the Mataredonda farm belonging to Mr. Jose del Carmen Rivera, in favor of the Provincial College. Fifty.—Icaza. Manuel de la Barrera y Munoz. Collector's office for provincial taxes. Panama, twenty-third of June, eighteen hundred and fifty-five. Feliz I. de Icaza." "Mr. Mariano Arosemena, Administrator General of provincial taxes for this province, spontaneously stated: that in view of the payment of two hundred and forty gold pesos made by Mr. Jose del Carmen Rivera to the

provincial treasury, the quit-rent of eight hundred gold pesos that lied on his Mataredonda farm in favor of the Provincial College, at the rate of three per cent per annum, is cancelled, according to the Ordinance of October seventh, eighteen hundred and fifty-four (Arts. 4 and 5) and the farm is now free from said lien. This instrument was read to Messrs. Mariano Arosemena, Administrator General of provincial taxes, Jose del Carmen Rivera who is redeeming the quit-rent, and Jose Maria Jovane, as trustee of the Provincial College, and they all signed these presents before the witnesses Messrs. Jose Manuel Casis and Juan Eloi Fuentes, who sign also together with the undersigned Notary Public who attests. M. Arosemena. F. del C. Rivera. J. Ma. Jovane. J. M. Casis Juan Eloi Fuentes. Manuel de la Barrera y Munoz."

I was present when the foregoing instrument was extended and after comparing this copy with the original document, I issue this copy, at the request of Mr. Jose del Carmen Rivera, on three sheets of stamped paper of the first class seal, in Panama, on the twenty-seventh of June, eighteen hundred and fifty-five. (Signed) Manuel de la Barrera y Munoz.

The foregoing instrument has been recorded in the Register book for the district of Panama, on page eighteen, on the twenty-seventh day of June, eighteen hundred and fifty-five. (Signed) Jose Lara.

689 EXHIBIT "A-1" (e-1).

Judgment.

Whereas,—According to the showing made by the evidence and briefs of the parties, it is established that Pedro Miro was the lawful husband of Maria Eusevia Ximenez, and that during her life time he sold to Jose Garcia de Paredes the estate of Lo de Caceres, there being included in the sale all that parcel of land situate on the right hand side of a line from Mocambo to the Mata Redonda. In the deed filed the 18th of September, 1832, a privilege not subject to renouncement is recognized in favor of Gregorio Gomez, Jr., lawful husband of the plaintiff, Maria Josefa Miro, who inherited the rights of her husband, and to whom the said estate has passed. It is likewise shown in the interrogatory requested by Manuel Monteral that Pedro Miro admitted that it was with Mrs. Jimenez's dotal money (dinero dotal) that she purchased the estate Mata Redonda; wherefore, it has been proven that she did have the right to establish the privilege not subject to renouncement, and that Pedro Miro could not sell, against her wish, any part of the said estate because Act 49, Title 5, Sec. 5, expressly prohibits it. As a patronage or privilege is a real right, and Mrs. Miro is in possession of same, she is the one that can revindicate. She asks in her complaint bearing date the 4th of February, 1840, that Jose Garcia de Paredes be ordered to restore to her all the lands pertaining to Mata Redonda, and which were clearly described by the judgment of October, 1790, attached to her complaint. The judgment given by Joaquin Cabrejo in favor of Luis de la Barrera y Negreyros in the possessory action brought by Mrs. Clara del Carmen Gongora in March,

1790, contains this statement. It is derived from this analysis that the Crown Grant of Mata Redonda introduced may harmonize with the Crown Grant of the lands of Caceres, also introduced, insofar as the one states that its boundary line on the upper side is from the hill called Gallinazo to the end of Mocambo, and the other states that the line goes to the hills of Sonsonate and Gallinazo and thence to Mocambo, this means that the boundaries of the lands of Caceres go from Sonsonate to the end of Mocambo, and thence return passing in front of Sonsonate hill to the big Gallinazo hill. That, furthermore, it has been proven that Capt. Luis de la Barrera y Negreyros has under rent to Mrs. Juana Bavarena, by deed or contract, for a period of eleven years last past, the establishments of Algarrobo, Sonsonate and Gallinazos, since she has been in possession of same all the time as his tenant. Wherefore, it is pertinent to determine that Capt. Luis de la Barrera y Negreyros has been and is in lawful
690 possession of the lands from the extreme limits of Mocambo to the Gallinazos hill, and thence to the Mata Redonda, which lands comprise the establishments of Algarrobo, Sonsonate and Gallinazos. But there is no meeting of minds between the parties with regard to the points Mocambo and Gallinazos; wherefore, Jose Garcia de Paredes introduced the testimony of Juana Feliz Navarrete, 50 years of age, born and raised at Mocambo until of age, according to her own statement, who replied to the second question as follows: That she knows, by reason of living at the place called Palacios, the place called Mocambo, which lies within or in between the hills Istleno and Angeles; that it is surrounded by the said hills and the Penon hill, and that the spot itself of Mocambo is a river,—thus answering the question. The testimony of Manuela

Pequeno and Silvestre Gil agrees fairly well with the foregoing testimony. The testimony introduced by Mrs. Miro of Jose Maria Chiari, Jose Pablo Arce, Andres Avelino and Juan Berroa also agrees with same, except that they state that the river is called Manteca or Mocambo, and that it rises in the Penon hill. In view of the foregoing it is clear that the Judge in interpreting the Crown Grants fixed as the extreme limits of Mocambo a point at the foot of Penon hill, where the Manteca or Mocambo river rises. When Jose Maria Chiari answered under oath the questions presented by Mrs. Miro, he stated in answer to the second question: That he knows the place called Gallinazos because his aunt, Juana Bavarena, had the place rented when he was a child; that it is a woody hill lying very close to Sonsonate hill, a little to the south-east, where Capt. Luis de la Barrera y Negreyros placed a flag, for which reason sometimes it is referred to as the hill of the flag, and which is seen to the right of the road when going from this city to Portobelo; that he knows other hills with that name, a big one alongside the Concepcion estate, and another with a rock on the summit and which lies within the place known as Algarrobo, and which is seen to the left of the road when going to Portobelo, which hill is called Gallinazo. The other witnesses answer in like manner with little difference in the wording. The testimony of the witnesses of Paredes is conflicting. According to the title introduced in evidence by Paredes, which was the same one introduced by Mrs. Gongora, and according to the testimony accumulated by the parties, it is clear that the Gallinazos hill set out in the judgment lies to the south-east of the Sonsonate hill. As Mrs. Miro's right is clear, and as the points in the executed judgment introduced, which were raised, have

691 been explained, and administering justice on behalf of the State and by authority of the law, Jose Garcia de Paredes is ordered to deliver to Mrs. Maria Josefa Miro, widow of Gomez, within the period of six (6) days, the land of Algarrobo, Sonsonate and Gallinazos, included within the boundaries starting from the source of the Manteca or Mocambo river, contiguous to the Istleno, Angeles and Penon hills, and goes to the Gallinazo hill, which lies to the southeast of the Sonsonate hill, and thence to the Mata Redonda; and it is likewise ordered that this judgment be recorded after execution thereof. Let the costs be paid as incurred by the parties, and the common costs be paid in equal parts by said parties.—Manuel Arce.—This judgment has been handed down and signed by Dr. Manuel Arce, Judge of Real Estate. Panama, June 7, 1841.—Jose de los Santos Correso—In Panama on the eighth of said month and year I made same known to Jose Garcia de Paredes at the office.—Garcia de Paredes—Correoso.—On the same day I made same known to Manuel Monteral out of Court.—Monteral—Correoso.—I immediately made same known to Mrs. Josefa Miro at her home.—Miro Correoso. Whereas: This judgment is executed by operation of the law, and by reason of not having been appealed.—Manuel Arce.—This decree has been issued and signed by Dr. Manuel Arce, Judge of Real Estate. Panama, June 14, 1841,—Jose de los Santos Correso.

A copy—Panama, June 17, 1811.—Gomez.

A true copy. Panama, August 25, 1919.
(Sgd.) M. A. GRIMALDO B.
(Stamp seal) Clerk of the Supreme Court.

Juan Lombardi, Chief Justice of the Supreme Court of Justice, certifies: That the foregoing signature reading "M. A. Grimaldo B." is the true and genuine signature of said gentleman and the same signature he uses in official matters as Clerk of the Supreme Court of Justice.

Done in Panama the 25 day of the month of August, 1919.

(Sgd.) JUAN LOMBARDI,

(Stamp seal). (Fee stamps).

Leovigildo Gonzalez, Subsecretary of Government and Justice, certifies: That the foregoing signature reading "Juan Lombardi" is the true and genuine signature of said gentlemen and the same signature he uses for official business as Chief Justice of the Supreme Court of Justice.

692 Done in Panama the 26 day of the month of August, 1919.

(Sgd.) LEO GONZALEZ.

(Stamp seal).

Evenor Hazera, Subsecretary of Foreign Affairs, certifies: That the foregoing signature reading "Leovigildo Gonzalez" is the true and genuine signature of said gentleman and the same that he uses for official business as Subsecretary of Government and Justice.

Done in Panama the 26th day of the month of August, 1919.

(Sgd.) EVENOR HAZERA. (Seal).

American Legation, Panama.

This is to certify that the above signature of Evenor Hazera, Subsecretary of Foreign Affairs of Panama, and the seal of the Ministry of Foreign Affairs, are true and genuine, this 26th day of August, 1919.

(Sgd.) CARPERY OFFUTT,
(Seal) Charge d'Affaires.

693 EXHIBIT "B-2".

No. 1.

(Obverse)

Isthmian Canal Commission,
Department of Civil Administration
Division of Posts, Customs, and
Revenue, Office of District
Tax Collector
Official Business

Penalty
for Private Use
$300

MR. GUILLERMO PATTERSON,
Panama,
P. R.

(Reverse).

Ancon, C. Z., Mch. 18, 1913.

Sir:

Please take notice that there is due and payable to you at this office the sum of $5.00, United States Currency, on account of Real Estate Tax #249, "Mata Redonda", Las Sabanas.

Respectfully,
(Stamped) A. McGOWN.
Deputy Collector of Revenues

If not paid before June 30, 1912, a penalty of 20% will be added.

No. 2.

Original Government of the Canal Zone.
For Payor District of Ancon.

Receipt No. 19824. June 7, 1912.

Received from Guillermo Patterson, Las Sabanas ...
The sum of ..... Five and no/100 Dollars .....
license for
in payment of tax on ..... Real Estate ...Tax No. 249
for the period from July 1, 1912 to June 30, 1913.
(Sgd.) ARTHUR McGOWN,
$5.00 Deputy Collector of Revenues.

Note—No other form of receipt valid.

694 No. 3.

Original Government of the Canal Zone.
For Payor District of Ancon.

Receipt No. 13458. March 31, 1911.

Received from Guillermo Patterson Las Sabanas ...
the sum of .....Five and no/100 Dollars .....
in payment of tax on ...Real Estate ..... Tax No. 249
for the period from July 1, 1910 to June 30, 1911.
(Sgd.) A. McGOWN,
$5.00 Deputy Collector of Revenues.

Note—No other form of receipt valid.

No. 4.

Original Government of the Canal Zone.
For Payor District of Ancon.

Receipt No. 10169. April 29, 1910.

Received from ..... Guillermo Patterson .....
the sum of ..... Five Dollars .....
in payment of Tax on Real Estate, Las Sabanas, Tax #249 for the period from July 1, 1909, to June 30, 1910.

(Sgd.) A. McGOWN,
$5.00 District Collector.

By .....

Note—No other form of receipt valid.

695 No. 5.

Original Government of the Canal Zone.
For Payor District of Ancon.

Receipt No. 7219 June 26, 1909.

Received from Guillermo Patterson,—Las Sabanas ..
the sum of Twenty-five dollars .....
in payment of Tax on Real Estate, Rental value $500.00 for the period from July 1, 1908 to June 30, 1909.

(Sgd.) HUGH S. HUNTER,
$25.00 gold. District Collector.

Note—No other form of receipt valid.

No. 6.

(Obverse).

Isthmian Canal Commission,
Department of Civil Administration
Division of Posts, Customs, and
Revenues, Office of District
Tax Collector

Penalty
for Private Use
$300

Official Business

GUILLERMO PATTERSON,
Canal Zone.

(Reverse).

Ancon, C. Z., June 21, 1909.

Sir:

Please take notice that there is due and payable by you at this office the sum of $25.00, United States Currency, on account of Taxes on Real Estate as Las Sabanas.

Respectfully,

(Sgd.) HUGH S. HUNTER,
District Tax Collector.

If not paid before July 1st, 1909, a penalty of 20% will be added.

696 EXHIBIT "W".

The undersigned, Secretary of State in the Office of Government & Justice.

Certifies:

1. That the signatures on the attached documents which say "Francisco A. Facio", "Jose B. Martinez", "Jose Goti", and "Marcelino Lopez", are authentic of those who have been in the office and in actual exercise as Notaries Number One of this Circuit, and as used in the attached documents are used in all their official acts. These signatures mentioned are found in said documents as follows: The signature of Francisco A. Facio, who is now in actual exercise of duties as a Notary Public, in deed dated October 12, 1829, by which Pedro Ximenez sells the estate of Mata Redonda; that of April 26, 1841 by which Josefa sells the Estate of Mata Redonda; that of March 9, 1846, by which Juan de Dios Arisemena sells the estate of San Jose; No. 48, dated March 26, 1859, by which Jose del Carmen Rivera sells the estate of Mata Redonda; No. 37, dated February 11, 1871, by which Nazario Quinteri sells the estate of Mata Redonda; No. 212, dated August 25, 1876, by which Pedro Corisino Arauz sells the estate of Mata Redonda; No. 281, dated November 21, 1883, by which the Judge of Civil affairs perfects the sale of Mata Redonda.—The signature of Notary Public Jose B. Martinez is found on deed No. 292, dated November 19, 1884, by which Jose Saintbois sells the estate of Mata Redonda; and on deed No. 79, dated March 31, 1887, by which Jose Zayas Batista sells one-half of the estate of Mata Redonda.—The signature of Jose Goti, acting Notary, is found on deed No. 50, dated May 17, (1862)

by which Maria de las Nieves Collet de Martelo and Felipe Martelo sell the estate of Mata Redonda.—The signature of Notary Public Marcelino Lopez is found on deed No. 300, dated July 27, 1854, by which the heirs of Jose Isidoro Noriega sell the estate of Mata Redonda.

2. That the signatures which say "Archibaldo Boyd" and "Manuel Azcarate" are authentic of Notary Publics Number Two who have been in actual exercise of duty in this Circuit, and as used in the attached documents have been used by them in all their official acts. These signatures are found in the attached documents as follows: The signature of Notary Number Two Archibald Boyd, in actual exercise of duty, is found on deed No. 78, dated February 22, 1915, by which Mr. G. Patterson, protocolizes a deed referring to the estate of Mata Redonda, and dated in 1695.—The signature of Notary Public Manuel Azcarate, is found on deeds No. 235, dated July 9, 1888, by which Jose Zayas Bat-
697 ista sells the remaining half of the estate of Mata Redonda; No. 179, dated July 8, 1890, by which Jose Gabriel Duque sells one-half of the estate of Mata Redonda; No. 26, dated February 3, 1891, by which Jose Gabriel Duque and Manuel Espinosa B. sell the estate of Mata Redonda; and No. 58, dated March 2, of the same year, by which Jose Gabriel Duque and Manuel Espinosa B. correct the statement as to boundary lines given in deed No. 26, where they had made a mistake.

3. That the signature which said "Roberto Martinez L." is authentic of the Secretary of the Provincial Land Office in the exercise of duty in 1915, and the same signature at the foot of Resolution No. 3 of that office, and Resolution No. 188 is of the General Administration of

Public and Waste Lands, is the signature used by him in all his official acts.

Dated in Panama, May 20, 1918.

(Sgd.) EUSEBIO A. MORALES. (Seal).

The undersigned Sub-Secretary of Foreign Relations certifies: That the above signature which says Eusebio A. Morales is authentic of the Secretary of State in the Office of Government and Justice, and the same that he uses for all his official acts.

Dated in Panama, on the 20th day of May, 1919.

(Sgd.) EVENOR HAZERA. (Seal).

I, C. A. McIlvaine, Executive Secretary for The Panama Canal, in charge of the seal of the Government of the Canal Zone, hereby certify that I am familiar with the signature of Mr. Evenor Hazera, Sub-Secretary of Foreign Relations of the Republic of Panama, and that as written in the foregoing I verily believe it to be true and genuine.

Witness my hand and the seal of the Government of th Canal Zone this twenty-first day of May, A. D., One thousand nine hundred and eighteen.

(Sgd.) C. A. McILVAINE. (Seal).

698 EXHIBIT "B-8".

Republic of Colombia.

Good from Jan. 1, 1895 to Dec. 31, 1896.
1895 and 1896.

Price Twenty Cents, First Class.
For use in the Department of Panama.

Panama, April 17, 1895.

To the Honorable Judge of the First Circuit, in Civil Affairs:

A land title notice has been published by your order fixing the date to carry out the voluntary judicial sale of the lands and houses of the estate of Lo de Caceres, and the establishment of "El Algarrobo" as belonging to the heirs of Mr. Ramon Garcia de Paredes; said date being fixed as the 27th of this month.

Said order is not ripened yet, and therefore comes now before you Guillermo Patterson, a citizen and resident of this City, in his own behalf, and as owner of the estate of Mata Redonda, adjoining the estate to be sold, and asks of the Court to set aside said order, and should this petition be denied, grant an appeal before the Superior Tribunal. I base my petition on the following reasons:

1. That according to the boundary lines given in the land notice published, by which the said land is to be sold, my estate is included almost entirely within the said boundaries, which appears on the face of it since the heirs of Mr. Paredes state that their boundaries are a straight line from "Mocambo" to the "Mata Redonda"

and my titles clearly show that the line must go from the "Mata Redonda" to the hill of "Algarrobo"; thus overlapping and taking in the greater part of the estate of Mata Redonda.

2. That to carry out a sale of this kind it is necessary, according to law, that the land be delimited and marked beforehand.

3. That this being a judicial sale it is necessary to personally notify each and every one of the owners of adjoining estates, and this has not been done in this case; and

4. That the legislature, in order to prevent unjust cases of this kind, and with the object of safe-guarding the legitimate rights of third parties, allows them to intervene, so that the Court may correct the damage that might be caused to him. (See Sections 320 and 890 of the Code of Civil Procedure).

I attach herewith my titles to the estate of which I am actual possession, so that the Court may be able to judge as to the justice of my case, and estop said judicial sale which would deprive me of the greater part of the lands of my estate, and clearly states that the said judicial sale cannot take place with the boundaries set forth in the notice published, but they must be corrected as to the portion overlapping on my estate, thus amending your order given; and in case you should not grant this petition, I hereby ask that I be given an appeal.

(Sgd.) G. PATTERSON.

699 EXHIBIT "A-2". (k) (r) (dd).

Between the undersigned, to wit: Guillermo Patterson, in his own name and as owner of the lands of Mata Redonda, on one side, and Luciano Castillo, in his own name, on the other side, there has been entered into on this date the following lease contract. Art. 1—Guillermo Patterson gives in lease to Luciano Castillo a parcel of land in his lands in Mata Redonda, which parcel measures one cabulla (a cabulla is equivalent to approximately one hectare). Art. 2. The term of the lease is one year, computed from the first of January of the present year, and may be renewed for a year more at the option of both parties, if the same is agreed to one month in advance. Art. 3—The lessee may not sublet the land in its entirety or in part, nor assign the lease without express consent in writing of the lessor. By the mere fact of the infraction of this clause this contract becomes null and void without the necessity of a judicial declaration, at the judgment and option of the lessor. Art. 4—In case that the lessor sells the land or requires it for any particular need, whatever may be the nature of same, this contract shall be considered as rescinded by one notice only which the lessor shall give to the lessee one month in advance. Art. 5—In the case of this contract lapsing under the terms of the foregoing articles, the lessee is under the obligation of destroying the constructions made and the planting he may have in the land leased, five days after the termination of the lease, without the lessor being under obligation to pay for improvements of any kind, or damages of any description. In the event that the lessee does not himself, or by means of a representative, carry out the destruction referred to in this article, the lessor may do so without the act attaching any responsibility

whatever to him, as for that purpose the lessee confers ample power therefor upon the representative which he may have. Art. 6—The lessee shall not be permitted to build coal ovens, nor clear a larger area of land than is specified in this contract, and may not remove the wood for sale, but only for his own private use. Art. 7—The price of the lease is $15.00 per year, payable in advance. Default in timely payment shall be cause for rescission, in the judgment and at the option of the lessor, and the lessee shall be subject to the penalties and consequences set out in the foregoing article. As long as it is suitable to the interests of the lessor, he may receive, instead of the payment in money, the equivalent thereof at the rate of thirty days of labor in place of $15.00. The constructions, planting or improvements, made on the land leased, shall be sold to pay the expired rents and to indemnify the lessor the damages caused him by non-compliance on the part of the lessee. Panama, January 17, 1898.—G. Patterson.—At the request of Luciano Castillo, who cannot write, I do so, Jose P. Medrano.—Witness, Antonio Gallardo.—To judge One of the Civil Circuit In the event that Mr. Guillermo Patterson brings against me the action referred to in articles 41 to 43 of Act 100 of 1892, with respect to a parcel of land situate in the "Algarrobo", I hereby give a full and sufficient power of attorney, containing everything necessary under the law, to Dr. Pablo Arosemena, a native and resident of this place, the same as the opposite party and the undersigned, in order that he may represent me.—Panama, June 23, 1899.—At the request of Luciano Castillo, Guillermo Ariaz.—Court One of the Civil Circuit—Panama, August 2, 1899.—Whereas: Guillermo Patterson presented in this Court the titles showing that he is the regular possessor of the lands called "Mata

700

Redonda" situate in this District, and a contract of lease of a cabulla of land in said lands, made with Luciano Castillo, a contract judicially recognized by Castillo, and which expired the 31st of December, 1898. Considering said documents, and the undersigned having ascertained from same that the regular possession of the lands of "Mata Redonda" belong to Guillermo Patterson and that Luciano Castillo improperly retains a cabulla of said lands, he ordered him to deliver said cabulla to said Patterson, giving him for that purpose a period of ten days, a period double that fixed in the contract of lease. And now appears Dr. Pablo Arosemena, attorney of Castillo, requesting that the undersigned revoke the decree of ejectment of a piece of land belonging to the estate "Lo de Caceres", which belongs to Mrs. Catalina de Garcia de Paredes, issued at the request of Guillermo Patterson; giving as grounds for the revocation that his client occupies said piece of land by virtue of a contract of lease made with Mrs. Garcia de Paredes. He attaches to his petition the documents which are now hereinunder copied: "I have received from Luciano Castillo the sum of six pesos for the lease of the land he occupies in my lands of my estate "Lo de Caceres" at the place named "El Algarrobo" for the year which expired the 31st day of December, 1898.—Lo de Caceres, March 12, 1899.—For my mother, Catalina L. de Paredes—Otilda P. de Arosemena. —Alfredo Arosemena."—"I grant permission to Luciano Castillo to establish himself in my lands of my estate Lo de Caceres at the place named "El Algarrobo". —Lo de Caceres, March 12, 1899.—For my mother, Catalina L. de Paredes—Otilda P. de Arosemena—Alfredo Arosemena". There also appears in the record a memorial from Mrs. Lewis de Paredes, in which she makes the following statement: "Mr. Luciano Castillo has ad-

vised me that you have issued a decree whereby you ordered that he remove from a piece of land
701 of the estate of Lo de Caceres, belonging to me. In view of this information, I have decided to address myself to you in order to make known to you that Mr. Castillo occupies my land because I have given same to him under lease. Therefore, the right to remain on same is indisputable." The statement of Mrs. Lewis de Paredes is perfectly correct; and the request for revocation made by Dr. Arosemena would be perfectly correct if the undersigned had ordered Castillo to deliver to Patterson the land he occupies in the property of "Lo de Caceres"; but as what he was ordered to deliver was the parcel of land which Patterson leased him on the farm called "Mata Redonda", the petition for revocation appears to be groundless, inasmuch as there has not been presented the proof of the just title held by Castillo to retain or possess the said parcel of land. In view of the foregoing considerations, Judge One of the Civil Circuit, administering justice on behalf of the Republic and by authority of the law, denies the revocation requested. Let copy be made and notice issue.—Juan Lombardi.—Ricardo Borbua, Acting Clerk. —In the city of Panama at four o'clock in the afternoon of the 4th day of August, 1899, I notified Mr. P. Arosemena of the foregoing decree.—Arosemena—Borbua, Clerk.—In the city of Panama, at four o'clock in the afternoon of the 4th day of August, 1899, I notified Mr. Guillermo Patterson of the foregoing decree.—G. Patterson.—Borbua, Clerk.—Court One of the Civil Circuit—Panama, August 8, 1899—The time fixed for Luciano Castillo to deliver to Guillermo Patterson the land which Patterson leased to him having expired, and the revocation of the removal decree having been denied, the undersigned Judge One of the Civil Circuit, admin-

istering justice on behalf of the Republic of Colombia and by authority of the law, orders the ejectment of Luciano Castillo, which ejectment shall be carried into effect, even by the use of force, in the event that same be necessary. The alcalde of the District is commissioned to see that this order is strictly carried out within the period of five days. Transmit to him the original of the proceedings. Let notice issue.—Juan Lombardi. —Ricardo Borbua, Acting Clerk.—In the city of Panama, at 10.30, the 9th of August, 1899, I notified Mr. Guillermo Patterson of the foregoing order.—G. Patterson.—Borbua, Acting Clerk.—In the city of Panama, at 8 o'clock in the forenoon of the 10th day of August, 1899, I notified Mr. P. Arosemena of the foregoing order. —Arosemena.—Borbua, Acting Clerk. In the village of Algarrobo, within the jurisdiction of Pueblo Nuevo of the Sabanas, of this Municipal District, the undersigned Inspector of Police of Calidonia and his secretary appeared for the purpose of carrying out the or-
702 ders of the Municipal Alcalde. Being constituted in the said place, where is located the cultivation of Luciano Castillo, and having him (Castillo) present, he was ordered in compliance with the order made by Judge One of the Civil Circuit in his decree of the 8th of the present month, that from this moment he is advised that he must abandon entirely the farm that he is working in the lands of Mr. Guillermo Patterson, who is empowered to, either by himself or by his order, destroy, without any responsibility therefor, the cultivation which he may have in the said land; to all of which Luciano Castillo replied that in Court One of the Civil Circuit he was not advised that he must disoccupy said land; because if it had been so he would not have given occasion to being put out without notice. As a matter of record these proceedings are

drawn up, and which are signed by the persons intervening therein. Pablo Ruiz Z. At the request of Luciano Castillo who declares that he cannot write, witness Babino Acuna signs.—Victoriano Urriola, Clerk.—Inspection of Police of Calidonia, Panama, August 21, 1899—Let the present proceedings be returned to the Municipal Alcalde, entering of record for a better understanding of the foregoing proceeding, that in the cultivation of Liciano Castillo said Castillo has no dwelling of any kind; and the cultivation itself is not fenced, so therefore, it was not possible to enclose it and leave outside of same the said Castillo.—Pablo Ruiz Z.—Victoriano Urriola, Clerk. Received on the date thereof and I take it to the office—de Alba, Acting Clerk—Office of the Municipal Alcalde of Panama, August 21, 1899. —Let these proceedings be transmitted to the office of Judge One of the Civil Circuit by reason of compliance having been made with the order contained in decree bearing date of the eighth of the present month.—The Alcalde, J. F. de la Ossa—Jose F. de Alba, Acting Clerk.

Between the undersigned, to-wit: Guillermo Patterson, in his own name and as owner of the lands of Mata Redonda, on one side, and Felix Gomez, in his own name, on the other side, there has been made on this date the following contract of lease.—Art. 1—Guillermo Patterson gives in lease to Felix Gomez a parcel of grounds in his lands of Mata Redonda, which parcel measures ..... Art. 2—The term of the lease is for one year, computing from the first of January of the present year, and may be renewed for another year at the option of both parties; if they agree thereto one month in advance. Art. 3—The lessee may not sublet the land in its entirety or in part, nor assign the lease without express permission in writing given by the

lessor. By the mere violation of this clause
703 this contract becomes rescinded without the necessity of judicial decree, in the judgment and option of the lessor. Art. 4—In the event that the lessor sells the land, or requires it for any particular need, whatsoever may be the nature of same, this contract shall be considered as rescinded by one notice only which the lessor shall give to the lessee one month in advance. Art. 5—In the event of the termination of this contract under the terms of the foregoing articles, the lessee must destroy the constructions made and the cultivation he may have on the land leased, five days following the termination of the lease, without the lessor being under obligation to pay for improvements of any kind, or damages of any description. Should the lessee, either personally or by means of a representative of his not carry out the destruction referred to in this article, the lessor may do so, without this act attaching to him any responsibility whatsoever, and for this purpose the lessee gives full power therefor to the representative he may have. Art. 6—It shall not be permitted on the part of the lessee to make coal ovens, or clear a greater area of land than is specified in this contract, and he may not remove wood for sale thereafter, but only for his own private use. Art. 7—The price of the lease is $10.00 per year, payable in advance. Failure to make timely payment shall be cause for rescission, in the judgment and at the option of the lessor, and the lessee shall be subject to the penalties and consequences set out in the foregoing articles. Provided the lessor deems it to his interests, he may receive, instead of the payment in money, the equivalent thereof at the rate of 20 days of work in place of $10.00. The constructions, cultivation or improvements, made on the land leased, shall be sold to pay the rents due, and for the purpose of indemnify-

ing the lessor the damages caused him by the non-compliance on the part of the lessee.—Panama, July 9, 1897.—G. Patterson—At the request of Felix Gomez, owing to not being able to write, I do so, Manuel Otoya.—To Judge One of the Civil Circuit—To cover the contingency of Mr. Guillermo Patterson bringing against me the action referred to in articles 41 to 43 of Law 100 of 1892, with respect to a parcel of ground situate in "El Algarrobo", I hereby give power of attorney, full and sufficient, and whatsoever may be necessary in law, to Dr. Pablo Arosemena, a native and resident of this city, the same as the opposite party and the undersigned, in order that he may represent me.—Panama, July 23, 1899.—At the request of Felix Gomez, Guillermo Arias.—Court One of the Civil Circuit—Panama, October 14, 1899.—Whereas: Guillermo Patterson gave in lease to Felix Gomez a parcel of ground in his lands of "Mata Redonda", which lease expired the 9th of July
704 of the year last past. It so appears in the contract constituting the first sheet of this proceeding, judicially recognized by the lessee. The titles presented by Patterson show that he is in regular possession of the lands called "Mata Redonda" and mentioned in the contract, that Gomez improperly holds a parcel of same. Wherefore, Judge One of the Civil Circuit, administering justice on behalf of the Republic and by authority of the law, orders Felix Gomez to deliver to Guillermo Patterson within the peremptory period of ten days the parcel of land which he improperly retains, and which forms part of the lands of "Mata Redonda". Let copy be made and notice issue.—Juan Lombardi—Ricardo Borbua, Acting Clerk.—In the city of Panama, at nine o'clock in the forenoon of the 18th day of October, 1899, I notified Mr. Guillermo Patterson of the foregong decree.—G. Patterson—Borbua, Clerk.—In the

city of Panama, at 9 o'clock in the forenoon of the 18th day of October, 1889, I notified Mr. P. Arosemena.—Arosemena—Borbua, Clerk.

A true copy which I issue from the originals thereof in favor of Dr. G. Patterson, Jr., in accordance with Art. 4 of Act 19 of 1915, of the files Nos. 2203 and 2202 respectively, on four sheets of legal cap, which I seal and sign with a flourish on the margin, in Panama, the 23rd of September, 1918.

(Sgd.) M. ALMANZA CABALLERO,
(Stamp seal) Director of the National Archives.

To Judge One of the Circuit:

By means of these presents I beg to request that you will kindly certify hereunder, and return everything to me for such use as I may deem expedient, the following:

1. If in the archives or in the book of filings and papers issued of the Court under your worthy charge there is a record that in said Court any complaint or suit has been brought wherein the rights which the owners of the estate "Mata Redonda" have to this property have been disputed, the boundaries of which estate are as follows: "From the hollow rock of this name Mata Redonda a straight line to the hill of Algarrobo, thence without interruption to the hill of the Vidrio, thence to the hill Gordo, revolving to the headwaters of the river Cardenas, down stream, to the juncture of the stream Palangana, and from this stream, up stream, to the stream of the Platanar, without interruption,
705 this stream, upstream, to its source, and thence a straight line to the hollow rock."

2. If the record shows that at any time the rights of ownership to said land have been discussed, you will kindly indicate the exact date, the file, and the nature and result of the suit.

Panama, February 7, 1917.
(Sgd.) G. PATTERSON, Jr.

P. S.:
The owners of the estate from 1854 to the present have been: Jose del C. Rivera, Maria de las Nieves Collet de Martelo, Nazario Quintero, Corsino Araus, Jose Zayas Batista, Juan Saintbois, Jose Gabriel Duque, Manuel Espinosa B., G. Patterson and Guillermo Patterson, Jr.
(Sgd.) G. PATTERSON, Jr.

Received this 7th day of February, 1917, and I take it to the office of the Judge.

(Sgd.) GUARDIA,
Chief Official.

Mr. Secretary:
I beg to inform you that I have minutely searched the index of the archives of this Court, and I have found absolutely nothing covering any action taken relative to the estate "Mata Redonda" from 1852 to the present time.
(Sgd.) JUAN SANDOVAL H.,
Archivist.

The undersigned, Judge One of the Circuit of Panama, at the request of Dr. Gillermo Patterson, Jr.,

Certifies:

That in the archives of the office there has not been found any record whatsoever of any complaint or suit having been brought relative to preferred rights over the control of the estate "Mata Redonda", whose boundaries are set out in the foregoing petition, as follows: "From the hollow rock of this name Mata Redonda a straight line to the hill of the Algarrobo, thence without interruption to the hill of the Vidrio, thence to the hill Gordo, revolving to the headwaters of the river Cardenas, down stream, to the juncture of the creek Palangana, and from this juncture, up stream, to the creek of the Platanar, without interruption this creek, up stream, to its headwaters, and thence a straight line to the hollow rock."

Done in Panama, March 27, 1917.

(Signature illegible).

(Sgd.) ERASMO MENDES, Clerk.

(Stamp seal). Fee $1.00.

706 To Judge Two of the Circuit:

By means of these presents allow me to request of you that you kindly certify hereunder, and thereafter return everything to me for such use as I may deem expedient, the following:

1. If in the archives, or in the book of papers filed and issued, of the Court under your worthy charge, it appears that in said Court any complaint or suit has been brought, wherein the rights which the owners of the estate "Mata Redonda" have to said estate, have been disputed, the boundaries to which estate are the following: "From the hollow rock of this name Mata Redonda a straight line to the hill of the Algarrobo,

thence without interruption to the hill of the Vidrio, thence to the hill Gordo, revolving to the headwaters of the river Cardenas, down stream, to the juncture of the creek Palangana, and from this juncture, up stream, to the creek of the Platanar, without interruption, this creek, up stream, to its source, and thence a straight line to the hollow rock."

2. If it appears that at any time the rights of ownership to said land have been discussed, you will please indicate the exact date, the file, and the nature and result of the suit.

Panama, February 7, 1917.

(Sgd.) G. PATTERSON, Jr.

Placed in the office of the Judge this the 21st day of May, 1917.

(Sgd.) AMADOR.

Cristobal L. Segundo, Judge Two of the Circuit of Panama, in accordance with the verbal report made by the Clerk, certifies:

That after an examination of the inventory book of the matters filed in this Court, from the year 1882 to 1917, the following matters have been found bearing upon the estate Mata Redonda:

Suit for rescission of the sale of said estate brought by Jose Zayas Batista against Pedro Corsino Arana, which suit appears filed following the decree of the 16th of January of the year, 1885, which ordered that notice issue of the correction of the complaint;

Delimitation suit of the lands called Pan de Azucar and Mata Redonda, brought by Francisco A. Hurtado,

which ended with the decree which approved the delimitation, and

Request made by Ignacio de la Torre, trustee of the estate Mata Redonda, in the executive suit
707 brought by Pedro Corsino Arauz against Jose Zayas Batista, in which matter an appeal was granted under date the 17th of January, 1884, which was not prosecuted.

The foregoing matters are found filed in package No. 36, corresponding to the year 1882.

In witness whereof I draw up and sign this present certificate this 21st day of May, 1917.

(Sgd.) C. L. SEGUNDO,
Judge.

(Sgd.) JUSTARO A. AMADOR,
(Stamp seal) Clerk.

To Judge Three of the Circuit:

By means of these presents permit me to request of you that you kindly certify hereunder, and thereafter return everything to me for such use as I may deem expedient, the following:

1. If in the archives, or in the book of papers received and issued, of the Court under your worthy charge, there is a record of any complaint or suit having been brought in said Court, wherein the rights which the owners of the estate "Mata Redonda" have to said estate, have been disputed, the boundaries of which estate are as follows: "From the hollow rock of this name Mata Redonda a straight line to the hill of the Algarrobo, thence without interruption to the hill of the Vidrio, thence to the hill Gordo, revolving to the headwaters of the river Cardenas, down stream, to the juncture of

the creek Palangana, and from this juncture, up stream, to the creek of the Platanar, without interruption this creek, up stream, to its source, and thence a straight line to the hollow rock."

2. If it appears of record that at any time the rights of ownership to said land have been discussed, you will kindly indicate the exact date, the file, and the nature and result of the suit.

Panama, February 7, 1917.

(Sgd.) G. PATTERSON, Jr.

Received on this 9th day of February, 1917, and placed in the office.

(Sgd.) CHANDECK, Clerk.

Third Circuit Court—Panama, February 14, 1917.

Let the certificate requested in the foregoing petition issue at the cost of the interested party.

Let notice issue.

(Sgd.) VALLARINO,

(Sgd.) CHANDECK, Clerk.

708 On this 23d day of February, 1917, at 4.30 p. m., I notified Mr. Guillermo Patterson, Jr.

(Sgd.) GUILLERMO PATTERSON, Jr.

CHANDECK, Clerk.

The Third Judge of the Circuit of Panama on the written request of Mr. Guillermo Patterson Jr., certifies:

That in the archives of this Court there is no record whatever of there having been any suit or any procedure with regard to the lands of Mata Redonda, nor of the

rights which the owners of said estate have to said estate having been disputed; and also the book covering the entry and issuance of papers has been examined, and it likewise does not show that there is pending any procedure with regard to the said property, which property, according to the statement of the petitioner, has the following boundaries: "From the hollow rock, Mata Redonda, a straight line to the hill of the Algarrobo, thence without interruption to the hill of the Vidrio, thence to the hill of Gordo, revolving to the headwaters of the river Cardenas, down stream, to meeting the creek Palangana, and from this creek, up stream, to the creek Platanar, without interruption this creek, up stream to its source,, and thence a straight line to the Hollow Rock."

In witness whereof the present certificate is issued in Panama, the 11th day of the month of May, 1917.

Sgd. DARIO VALLARINO,
Judge.

(Stamp Seal) Sgd. EDWIN CHANDECK,
Clerk.

Ricardo Miro, Director of the National Archives, Certifies: considering the request of the Supreme Court of Justice, in communication No. 304, of April 21 of the present year, and having carefully and minutely examined the archives of the Circuit Courts of this city, the following:

1. That in the archives of Court One of this Circuit there is no record whatever of any revindication suit having been brought, nor of any procedure having been had with regard to the right of ownership of the lands of "Mata Redonda," brought by the owners of

"Lo de Caceres"; 2—That in the archives of this Court there are on file two posessory suits brought by Mr. Guillermo Patterson, as owner of "Mata Redonda", against Luciano Castillo and Felix Gomez, in which suits Mrs. Catalina Lewis de Garcia, owner of "Lo de Caceres," intervened. The first mentioned ended by judgment in favor of Mr. Patterson, handed
709 down the 2d day of August, 1899, and the ejectment of Castillo, carried out by the Inspector of Police, Pablo Ruiz Z., the 21st day of August of the same year; and the second ended with the judgment pronounced the 14th day of October, 1899, also in favor of Mr. Patterson; 3—That in the archives of the Second Court of this Circuit there is also no record that the owners of "Lo de Caceres" have brought a revindication suit, nor have brought any action whatever with reference to the right of ownership of the lands of "Mata Redonda;" 4—That in the archives of the said Second Court there are only the following matters: A—Suit for rescission of the sale of the estate "Mata Redonda," brought by Jose Zayas Batista against Pedro C. Arauz, which suit appears filed following the decree of the 16th of January of 1885, which ordered that the correction of the complaint be served on the parties; B—Delimitation suit of the lands called "Pan de Azucar" and "Mata Redonda", brought by Francisco A. Hurtado, which ended with the decree approving the delimitation, and; C—The ordinary suit brought by Ignacio de la Torre, requesting payment of fees, as trustees of the estate "Mata Redonda," in the executive suit brought by Pedro Corcino Arauz against Jose Zayas Batista for non-payment, in which action an appeal was granted from the decree of the 17th of January, 1884, which was not prosecuted; 5—That in the archives of Courts Three and Four of the Circuit of this city there is also no

record whatever that the owners of "Lo de Caceres," nor any other persons, have brought a revindication suit, nor have taken any steps whatever bearing upon the right of ownership of the lands of "Mata Redonda". In these Courts there is likewise no matter of any other nature with regard to said property, and; 6th—That in the books of papers filed and issued of the Courts of this circuit there is likewise no record of any revindication suit whatever brought by the owners of "Lo de Caceres," nor of there having been discussed in any form whatsoever the right of ownership of "Mata Redonda," and that the record only shows the papers filed and issued in the aforementioned matters.

Notwithstanding this, the Director of the Archives enters of record that Civil Courts One and Two of this Circuit still retain in their offices a part of the archives, and that this certificate refers to the classified part of the archives on file in this office.

In witness whereof these presents are issued in Panama the 13th day of June, 1919.

(Sgd.) RICARDO MIRO,
(Stamp Seal) Director of the National Archives.

710 Ricardo Miro, Director of the National Archives, at the request of Mr. Guillermo Patterson, Jr., certifies:

That Court One of the Circuit has sent to this office its archives complete, corresponding to the years 1850 to 1915, inclusive, and the archives corresponding to the year 1916 incomplete; and Court Two of the Circuit has sent them complete from the year 1819 to 1890, inclusive. Court Three of the Circuit has sent its ar-

chives corresponding to the years 1873 to 1917, inclusive, and Court Four its archives from 1904 to 1918.

In witness whereof these presents are issued the 14th day of June, 1919.

Sgd. RICARDO MIRO,
(Stamp Seal) Director of the National Archives.

Narciso Garay, Secretary of State in the office of Foreign Affairs, certifies: That the foregoing signatures reading "Francisco A. Facio" and "Archibaldo Boyd" are the true and genuine signatures of the notaries of this Circuit during the year 1918; those reading "E. Fernandez Jaen," "C. L. Segundo" and "Dario Vallurino" are the true and genuine signatures of the judges of this Circuit during the year 1917, and those reading "M. Almanza Cabellero" and "Ricardo Miro" the true and genuine signatures of those in charge of the archives during the years 1918 and 1919, respectively. That the seals on said documents are also the true and genuine seals, and that the signatures as well as the seals are those which they have always used for all of their official acts.

In witness whereof, I sign this present certificate in the city of Panama on the 12th day of the month of April, 1921.

(Fee Stamps) Sgd. NARCISCO GARAY.
Canal Zone, Isthmus of Panama.

I, John H. Smith, Acting Executive Secretary for The Panama Canal, in charge of the seal of the Government of the Canal Zone, certify that Narciso Garay was on the 12th day of April, A. D. 1921, the duly appointed

Secretary of Foreign Relations of the Republic of Panama, and that his signature as above written is true and genuine.

Witness my hand and the seal of the Government of the Canal Zone, this 18th day of April, A. D. 1921.
(Seal) Sgd. JNO. H. SMITH.

711 EXHIBIT B-4.

No. .....

Know all men by these presents, that we, the undersigned, to-wit: Guillermo Patterson, in his own name as owner of the lands of "Mata Redonda," as party of the first part, and Francisco Jaen, in his own name as party of the second part, have hereby made and entered into the following Lease Contract:

Article 1. Guillermo Patterson leases to Francisco Jaen a parcel of land within his estate of Mata Redonda which parcel of land measures one cubulla.

Article 2. The length of lease is one year from the first of January of the current year and it may be extended for one year more should the parties so agree a month beforehand.

Article 3. The tenant is not allowed to sublet neither the whole nor part of the land without a written consent of the landlord. The violation of this clause means by itself that this contract has been automatically dissolved, without any Court decree being necessary to that effect at the landlord's option.

Article 4. Should the landlord need the farm or should he need the leased land for any particular purpose, whichever it may be, this contract will be dissolved by the sole notice given one month in advance by the landlord to the tenant.

Article 5. In case this contract should be dissolved and ended by any of the ways mentioned in the above clauses, the tenant has the right to take away or destroy any buildings, plantations or improvements of any kind which he might have done on the land, within five days after the contract has been dissolved, but the landlord is hereby released from payment for said improvements or for torts or damages of any kind.

Should the tenant abstain from demolishing, taking away or otherwise destroying the improvements, plantations and buildings referred to in this article, the landlord may do it and this act will lay upon him no responsibility as the tenant confers herein upon him or his representative enough and sufficient authority to do so.

712 Article 6. The tenant is not allowed to make charcoal kilns, nor to clear a larger portion of land than the parcel herein specified, nor will he be permitted to take out kindling wood for sale but for his personal use only.

Article 7. The rent will be $7.50 gold annually, payable in advance. Lack of payment on time will be sufficient cause for dissolving this contract should the landlord so desire, and the tenant will be subjected to conditions specified in the preceding clauses.

Whenever the landlord should deem it convenient he may accept instead of cash payment its equivalent in

work at the rate of 30 days' work instead of the $7.50 gold. All constructions, plantations or improvements on the leased land will be sold in the case of non-payment, to pay the rent and cover damages and costs done to the landlord through the breach of this contract.

1899.

Panama, January 1, 1898.

(Sgd.) GUILLERMO PATTTERSON,
(Sgd.) G. PATTERSON.
(Sgd.) FRANCISCO JAEN.

Renewal

713 EXHIBIT "B-5."

No. .....

Know all men by these presents, that we, the undersigned, to-wit: Guillermo Patterson, in his own name as owner of the lands of "Mata Redonda", as party of the first part, and Felipe Hernandez, in his own name as party of the second part, have hereby made and entered into the following

Lease Contract.

Article 1. Guillermo Patterson leases to Felipe Hernandez, a parcel of land within his estate of Mata Redonda which parcel of land measures one cabulla.

Article 2. The length of lease is one year from the first of January of the current year and it may be extended for one year more should the parties so agree a month beforehand.

Article 3. The tenant is not allowed to sublet neither the whole nor part of the land without a written consent of the landlord. The violation of this clause means by itself that this contract has been automatiaclly dissolved, without any Court decree being necessary to that effect at the landlord's option.

Article 4. Should the landlord need the farm or should he need the leased land for any particular purpose, whichever it may be, this contract will be dissolved by the sole notice given one month in advance by the landlord to the tenant.

Article 5. In case this contract should be dissolved and ended by any of the ways mentioned in the above clauses, the tenant has the right to take away or destroy any buildings, plantations or improvements of any kind which he might have done on the land, within five days after the contract has been dissolved, but the landlord is hereby released from payment for said improvements or for torts or damages of any kind.

Should the tenant abstain from demolishing, taking away or otherwise destroying the improvements, plantations and buildings referred to in this article, the landlord may do it and this act will lay upon him no responsibility as the tenant confers herein upon him or his representative enough and sufficient authority to do so.

714 Article 6. The tenant is not allowed to make charcoal kilns, nor to clear a larger portion of land than the parcel herein specified, nor will be he permitted to take out kindling wood for sale but for his personal use only.

Article 7. The rent will be $7.50 gold annually, payable in advance. Lack of payment on time will be sufficient cause for dissolving this contract should the landlord so desire, and the tenant will be subjected to conditions specified in the preceding clauses.

Whenever the landlord should deem it convenient he may accept instead of cash payment its equivalent in work at the rate of 30 days' work instead of the $7.50 gold. Being understood that the landlord will give meals to the tenant in case of his performing work instead of cash payment. All constructions, plantations or improvements on the leased land will be sold in the case of non-payment, to pay the rent and cover damages and costs done to the landlord through the breach of this contract.

January 1st, 1907.

(Sgd.) G. PATTERSON.

At the request of Felipe Hernandez, who does not know how to sign his name, I sign these presents.

(Sgd.) JOSE ISABEL de LEON.

715 EXHIBIT "B-6."

Know all men by these presents, that we, the undersigned, to-wit: .....(blank)..... in his own name as owner of the lands of .....(blank)....., as party of the first part, and Francisco Jaen, in his own name as party of the second part, have hereby made and entered into the following

Lease Contract.

Article 1. .....(blank)..... leases to Francisco Jaen a parcel of land within his estate of ..(blank).. which parcel of land measures ....(blank)....

Article 2. The length of lease is one year from the first of January of the current year and it may be extended for one year more should the parties so agree a month beforehand.

Article 3. The tenant is not allowed to sublet neither the whole nor part of the land without a written consent of the landlord. The violation of this clause means by itself that this contract has been automatically dissolved, without any Court decree being necessary to that effect at the landlord's option.

Article 4. Should the landlord need the farm or should he need the leased land for any particular purpose, whichever it may be, this contract will be dissolved by the sole notice given one month in advance by the landlord to the tenant.

Article 5. In case this contract should be dissolved and ended by any of the ways mentioned in the above clauses, the tenant has the right to take away or destroy any buildings, plantations or improvements of any kind which he might have done on the land, within five days after the contract has been dissolved, but the landlord is hereby released from payment for said improvements or for torts or damages of any kind.

Should the tenant abstain from demolishing, taking away or otherwise destroying the improvements, plantations and buildings referred to in this article, the land-

lord may do it and this act will lay upon him no responsibility as the tenant confers herein upon him or his representative enough and sufficient authority to do so.

716 Article 6. The tenant is not allowed to make charcoal kilns, nor to clear a larger portion of land than the parcel herein specified, nor will he be permitted to take out kindling wood for sale but for his personal use only.

Article 7. The rent will be $3.00 gold annually, payable in advance. Lack of payment on time will be sufficient cause for dissolving this contract should the landlord so desire, and the tenant will be subjected to conditions specified in the preceding clauses.

All constructions, plantations or improvements on the leased land will be sold in the case of non-payment, to pay the rent and cover damages and costs done to the landlord through the breach of this contract.

Panama, January 1, 1900.
(Sgd.) FRANCISCO JAEN.

717 EXHIBIT "C."

The undersigned, Municipal Librarian, Certifies:

That in Nos. 1918, 1919 and 1920 of "El Cronista" corresponding to the edition of the 4th, 6th and 9th of April, 1895, next to the judicial sale notice of the estate of "Lo de Caceres" there is a notice which reads as follows:

"A voluntary judicial sale notice of the estate of "Lo de Caceres" has been placed on the advertising boards of this city. Describing the boundaries thereof a mistake has been made regarding my estates of "San Jose" and "Vista Hemosa." The San Jose eastern boundary is the "Rio Hondo" from its headwaters to the place where the "Juan Diaz Caballero" boundary begins; North, from the headwaters of the "Rio Hondo," the boundary goes to the "Platanar" Creek then following this creek and along the "Palangana;" and it is bounded on the West by the River "Cardenas" from the junction of the Palangana to the crossing of the ancient Cruces Road. All lands included within these limits belong to "San Jose." There is no land of Lo de Caceres whatever to the west of "Rio Hondo."

"Regarding "Vista Hermosa" its boundary line with Lo de Caceres is a line from the source of the "Pan de Azucar" creek to the source of the "Matasnillo" River, which are near each other, thence said river to the place where the land limits of "The Club" begin.

"I publish this notice to warn those who intend buying Lo de Caceres and wish to avoid a law suit.

"Panama, April 4th, 1905.
(Sgd.) CARLOS ICAZA AROSEMENA."

In witness thereof I attest my sign and signature to this Certificate in the City of Panama on the 10th day of April, 1918.

(Sgd.) SALOMON PONCE AGUILERA,
Municipal Librarian.

718 The undersigned, Mayor of the Municipal District, certifies:

That Mr. Salomon Ponce Aguilera was the Municipal Librarian on the 10th day of April, 1918, on which date the above certificate was dated, and that the signature attached to same is identical with the signature signed to his oath of office which is kept in the archives of this office.

Dated in Panama, the 20th day of the month of April, 1921.

(Sgd.) ARCH. E. BOYD,
Chief of First Section, Acting Secretary to the Mayor.

(Seal) (Sgd.) JUAN PASTOR PAREDES.

Certificate No. 27 of 1921.

Alfredo A. Ayala, Acting Governor of the Province of Panama, certifies:

That the above signature which says: "Arch. E. Boyd", is authentic of the Mayor of this Municipal District, which is in legal exercise of his duties.

Dated in Panama, the 20th day of the month of April, 1921.

The Acting Governor,

(Sgd.) ALFREDO A. AYALA,

(Seal) Chief Clerk to the Governor, in charge of the Secretaryship.

(Sgd.) J. M. DUTARY.

Office of the Governor of the Province.

Registered on page 149
Certificate Book No. 10
Panama, April 20, 1921.
(Sgd.) J. M. DUTARY.

719 Leovigildo Gonzales, Sub-Secretary of Government and Justice, Certifies:

That the above signature which says: "Alfredo A. Ayala", is authentic of the Acting Governor, who is now in the legal exercise of his duty, and it is exactly the same that he uses in all his official business. The preceding seal is that of the Office of the Governor of this Province.

In testimony thereof I sign this certificate in the City of Panama, on the 21st day of the month of April, 1921.

(Seal) (Sgd) LEO GONZALES.

The undersigned, Sub-Secretary of Foreign Affairs, Certifies:

That the preceding signature which reads: "Leo Gonzales" is authentic of the Sub-Secretary of Government and Justice.

Dated in Panama, on the 21st day of April, 1921.

(Seal) (Sgd.) JULIO LAFFARGUE.

Balboa Heights, Canal Zone, Isthmus of Panama.

I, John H. Smith, Acting Executive Secretary for The Panama Canal, in charge of the Seal of the Government of the Canal Zone, certify that Julio Laffargue is, and was on the 21st day of April, A. D. 1921, the duly appointed Sub-Secretary of Foreign Relations of the Government of the Republic of Panama, and that his signature on the reverse side of this sheet in the attached document is true and genuine.

Witness my hand and Seal of the Government of the Canal Zone, this twenty-third day of April, A. D., One thousand nine hundred and twenty-one.

(Seal) (Sgd.) JNO. H. SMITH.

720 EXHIBIT "G."

Number Seventy-eight.

Guillermo Patterson records a title to the Mataredonda Farm. Panama, February twenty-second, nineteen hundred and fifteen.

In the City of Panama, Capital of the Province and of the Republic of Panama, on the twenty-second day of the month of February of the year nineteen hundred and fifteen, before me, Archibaldo Boyd, Notary Public No. 2, of the Circuit of Panama, personally appeared Mr. Guillermo Patterson, of age, a widower, a land owner, native and resident of this city whom I know, and produced before me, requesting that I should record in my Notarial Register, a title to the farm known as "Mataredonda," extended on stamped paper of the Republic of New Grenada, for the fiscal year commending on the 1st of September, 1845, and ending on the 31 of August, 1846, said title being rather deteriorated and torn out which makes it difficult to copy it entirely. Its contents are as follows: "Be it known that I, Lic. Tomas Bonifas de las Casas, a resident Priest of the Diocesis of this kingdom of Tierra Firme, state that: Mrs. Tomasa Ramos has imposed a redeemable quit-rent for the sum of two thousand pesos (of the value of eight reals per peso) on her property called Mataredonda, which is situated within the boundaries of this city, said quit-rent

befalling on me as the chaplain owner of same according to the title to this estate which was extended before Capt. Juan Jose Franco, His Majesty's Notary Public, on the twenty-eighth of February of the
721 year sixteen hundred and ninety-five (here the paper is torn) has acknowledged according to a testimonial of said deed which is kept in the archives of the Convent of our Lady of Mercy to which the foundation would fall back on the event of my death and in view of the fact that the High Constable of the Court, Mr. Jose de la Sierra, who became the possessor of said estate, impaired its capital value and it was thus found necessary to dispossess him from same and to estimate and appraise it in order to come to an understanding (the paper is torn here) a person who might purchase it on condition to pay the annual interest in conformity with the capital value. And after the appraisal of the cattle and lands, it turned out (the paper is torn here) the sum of one thousand and fifty pesos, in consideration of which I sold it, as far as the quit-rent is concerned, to Ensign Domingo Pimentel, who agreed to pay annually the accrued interest at the rate of three per cent.; and in view of the fact that the (the paper is torn here) of sale given by me was destroyed in the large fire which occurred in this city in the year seventeen hundred and thirty-seven, as well as the titles and crown grant of the lands which had not yet been delivered to Ensign Domingo Pimentel as they were in possession of the said High Constable of the Court, who was then away in the kingdom of Spain, where he died, and as owing to the death of Mr. Domingo Pimentel the farm became the property of his widow, Mrs. Jacinta Nanes, the latter, having no legal title concerning the ownership and dominion of her husband on said estate nor with reference to her ownership of same after his

death, has requested me to extend the necessary and sufficient title. Therefore, in the best manner and most legal form, I acknowledge that the said Mrs. Jacinta Nanes, after her husband's death, has paid me annually the accrued interest on the sum of one thousand and fifty pesos, and as the rights and actions of her late husband have befallen upon her, she is the owner of said property together with its lands, hills, rivers, cattle and all appurtenances according to use and custom; the
722 boundaries of those lands as possessed by our ancestors in virtue of a crown grant were stated to be on the lower part from the Mataredonda up to the ..mits of the river Car..nas inc..ding its headwaters and springs ....bottom, downstream to the junction of the Palangana stream and thence seeking a creek with a rocky bed which crosses the papaya field; and on the upper part, from the hill called ..... to the furthest boundaries of Mocambo, lands which were granted by the Crown for the sum of one thousand pesos (eight reales each peso); all of which I have sold for the sum of one thousand and fifty pesos .... of quit-rent subject to the chaplaincy founded by Mrs. Thomasa Ramos, which, in the event of my death befalls upon the Convent and religious home of Our Lady of Mercy, Redemption of captives, in this city, and while I live I shall come forth to the defense in case of a lawsuit, trouble or discussion which might arise over the possession of said estate or to (the paper is torn here) pleading at my own expenses until she be placed in quiet possession of the estate and if not (the paper is torn here) any interest, damages or losses in which she may have incurred, on presentation of this deed or its copy or simply on the oath of the interested party without any other evidence, even in case this were required by the law, as I relieve her from producing it. To the ful-

filment of this duty I pledge all my property and income which I now have or may have in future, under the authority and jurisdiction of the judges of my privileged tribunals, whichever they may be, to whose juristion I submit and renounce my domicile and residence and also the law which states that the actor must following the same jurisdiction as the defendant, so that they may compel me to it by a judicial order (the paper is torn here) and by executory decree, and also by judgment passed upon, I renounce all the (the paper is torn here) jurisdiction and rights on my behalf in the way (the paper is torn here) is prohibited by the (the paper is torn here) ..... Chapter Suam o pennis ordinandus de absolutionibus i Informa camere. This is signed in the city of Panama on the seventh day of Au-
723 gust, seventeen hundred and forty-two. And the granter, whom I, the Notary Public, attest I know, executed and signed this public instrument, being .. (the paper is torn here) ..wit..es Captain Francisco Gonzales del Surso, Pedro Maso and Francisco Salgueros. Tomas Jose Bonifas. Before me, Jorge Jeronimo Perez, His Majesty's Notary Public. This is a true copy of the aforementioned deed which is to be found in the Record of deeds and public instruments of Notary Public Jorge Jeronimo Perez for the said year and also in the archives of the Honorable Chapter to which I refer. At the instance of an interested party, I deliver this copy in Panama, on the third day of September, eighteen hundred and forty-five. (Signed) Jose de los Santos Correoso. (Notary's seal). The aforesaid writing having been read to Mr. Guillermo Patterson, before the witnesses Messrs. Edwin Chandeck and Dario Arosemena, male, of age, residents of this district, duly qualified to act as such witnesses, he found that same agreed with the original instrument. It must be stated that

said document was returned to Mr. Patterson, at his own instance. And he signs together with the aforementioned witnesses, before me who attest. G. Patterson. Edwin Chandeck. Dario Arosemena. Archibaldo Boyd, Notary Public No. 2.

This first copy which I deliver on two sheets for Mr. Guillermo Patterson, on this twenty-second day of February, nineteen hundred and fifteen, is a true copy of the original instruments.

(Signed) ARCHIBALDO BOYD,
Notary Public No. 2.

(Seal: Republic of Panama. Circuit of Panama. Notary Public No. 2).

Translated from original document. (Sgd.) Juan Ml. Porcell, Jr.

724 EXHIBIT "H."

Be it known, that I, Doctor Pedro Ximenes, a resident of this city, testamentary executor of the late Luis de la Barrera y Negreyros, my uncle, stipulate by the present deed that I give in actual sale from this date and for all time to Maria Eusebia Ximenez, my sister, a resident of this same place, and legitimate wife of Pedro Miro, who has given her his consent and who has intervened in the contract and signs this deed in witness thereof, a horse and cattle ranch, called Mata Redonda situate in the vicinity of this city, on which ranch there is a house, and kitchen of frame construction and tile roof, and a chapel constructed of masonry, a slave called Jose de Jesus, lands and all the rest

which de facto and dejure may belong to same; uncleared lands, pastures, streams, watering places, drinking troughs, the uses thereof, and right of way, all in order that it may be hers, her heirs, and successors, or whomsoever that may in any manner represent her, in the sum of one thousand five hundred pesos which must be paid within the period of eighteen months which shall be computed from the fourth day of October of the past year, and in usual and current money; recognizing as a tax and redeemable contribution the principal, one thousand pesos, in favor of the priest, Jose Arechua, a resident of Quito; and four hundred in favor of Madam Francisca Xabiera Gonzales Cordero, both respectively at three per cent. which the first annually produces, thirty-one pesos and forty cents, and the second, twelve pesos, with notice that the said ranch is liable for the payment of the said one thousand five hundred pesos and interest at five per cent. which runs from the first of January of this year. And as the property of the estate under my charge I transfer the same under the terms in question, and declare that there is no other lien upon same, tax, and mortgage, and that the sum aforementioned is the true value thereof, and if the property is worth more, or may be worth more, the excess, be it large or small, I make over as
725 a donation to the vendee, good, pure, perfect, and irrevocable, of those which the law calls intervivos, to which end I waive the law of the royal ordinance made in Cortes de Alcala de Henares, and the rest in harmony therewith, especially the first law of title eleven, book five of the Code, and the closing law of the final title, sixth item: Wherefore, I desist, separate, and withdraw from the said estate under my charge the right of possession, ownership and dominion which the estate had and possessed in the said ranch,

and all, together with the Patronato, I cede, renounce, and transfer to the vendee in order that, as her own, obtained by just and legitimate title, she may dispose of same of her own free will and accord. And for the eviction, security and warranty of this sale I bind in such manner the property of the estate which I represent that now and for all time it may be certain and secure to her, and against the same there shall not be brought any law suit, embarrassment nor contradiction, and if such be brought, as soon as I have knowledge thereof, I shall proceed to the defense of the said estate until I leave the vendee in quiet and pacific possession; and if I should be unable to warrant the sale the said estate shall return to her the cash payment of one thousand five hundred pesos, and, furthermore, I will pay the costs, damages, arrears, and loss, occasioned her and recognized, by virtue of this deed, the notification thereof, and of the simple oath of the party to which I defer the proof, investigation, and liquidation offered for the prima facie execution thereof, although de jure it may be required by reason of the fact that I waive the same. And for the compliance therewith and stability thereof I bind the present and future property of the estate with jurisdiction give to the Courts of whatsoever place, to whose jurisdiction and laws I submit the property, and waive the domicile and corresponding residence, and the law which says that the actor must follow the jurisdiction of the defendant. I waive the laws and rights which may favor the same, together with the law which prohibits the waiving in general of the laws. And
726 the vendee, Maria Eusebia Ximenes, in company with her legitimate husband, Pedro Miro, being present at the execution of this deed, having heard and understood the same, states that, availing herself of the authority conferred upon her by her husband, she

accepts in her favor the terms and conditions of the said deed, and declares that she acknowledges satisfactory delivery to her of the ranch in question, and of being in actual and effective possession of same. And in view of the fact that the receipt and delivery is not a present transaction she waives the laws in regard to same, fraud, deceipt, the proof thereof, and all else in the premises, and she binds herself to recognize on the aforesaid ranch the one thousand four hundred and fifty pesos as principal (illegible) encumbering the same; and to pay the interest thereon annually at the corresponding periods, and in the form and manner specified; and, furthermore, to satisfy the said one thousand five hundred pesos and interest at five per cent. in the form expressed in the text of this deed, for the compliance of which and validity thereof, she binds her present and future property fully under the law. And that the general obligation may not derogate nor prejudice the special obligation, which is not the case, Madam Maria Eusebia Ximenes mortgages for the security of the payment of the one thousand and five hundred pesos, and interest at five per cent. the said horse and cattle ranch called Mata Redonda in order that she may not dispose of same in any manner whatever as long as it be shown that the debt has not been paid, and should she do so the sale shall be null and of no effect although the property pass to third, fourth or more holders. And in the duty and registry fee for the sale covered by this instrument having been paid, the certificate issued by the Collector's Office is inserted, which reads as follows: Certificate—Tax Office of the Entry of Mortgages and of Registration of the Canton of the capital of the Department of the Isthmus. On this date Manuel Miro has paid into this office at the request of the S. D.

727 Pedro Ximenes sixty-one pesos and seventy-cents as the duty and registration fee of the bill of sale which he has made in favor of Madam Eusebia Ximenes de Miro of a ranch called Mata Redonda, to-wit: one thousand five hundred pesos in cash, and one thousand four hundred and fifty as a tax at three per cent. This appears of record as item twenty-four, sheet seventeen, of the respective book. Panama, October 12, 1829—Pedro Ledesma, Collector. The certificate inserted agrees with the original thereof. Made in the City of Panama on the twelfth day of the month of October, 1829. And the parties hereto, whom I, the undersigned Notary Public and of the number of this Canton, give credence, and who are known to me, so stipulated and signed, Jose Ventura Calva, Jose Ysidro Noriega, and Raymundo Yturralde acting as witnesses. ....Pedro Miro—Pedro Ximenes—Maria Eusebia Ximenes—J. Victorino Soto, Notary Public.

This copy agrees with the original thereof, and I issue the same on two sheets for Mr. G. Patterson, Jr., in Panama, on April 27, 1918.

(Sgd.) FRANCISCO A. FACIO,
Notary Public No. 1.

EXHIBIT "I."

Deed of April 26, 1841, by which Josefa Miro Sells to Jose Isidero Noriega the Lands called "Mata Redonda."

Be it known that I, Maria Josefa Miro, of this place, stipulate by the tenor of this instrument that I have given in actual sale from the fifth day of the present

month, and with the consent of the trustee of the college, Tadeo Perez, who, in witness whereof, signs this instrument, to Jose Isidero Noriega of this place a farm belonging to me named "Mata Redonda", in order that it may be his, his heirs and successors, and whomsoever in law may represent him, which property is
728 comprised within the territory of this city, and the vendee has received the same openly with the obligation of restoring same and recognizing therein two thousand pesos in this form,—one thousand pesos in favor of the College of the Isthmus, represented by the trustee, Tadeo Perez, and the remaining thousand in favor of the priest Jose Arechua or the person who in legal form makes a showing as representing him, both amounts at the rate of three per cent. per year which for years past have been a lien on the property, and satisfaction of the revenue thereof shall be made to the vendee from the aforesaid fifth day of the present month in future as the revenue falling due up to the aforesaid fifth day of the present month is at all times under my responsibility and which I am under the obligation of satisfying. And I hereby declare that the price for which I make the transfer of the aforementioned farm, together with its very small number of cattle and horses, house, lands, woodland, pastures, roads of ingress and egress, streams, drinking troughs and watering places, and that which by act and by right may correspond to him, is the legitimate value thereof, that it has no other liens than those set forth, and that there is no other annuity or mortgage on the same; and if it is or might be worth more, the difference, be it small or large, I make a gift thereof to the vendee, good, pure, perfect and irrevocable, of those which are called Intervivos, to which end I waive the law of the royal ordinance enacted by the Cortes de Alcale de Henares and all other

laws in accord therewith, especially the first, title eleven, book five, of the digest, and the last of the final title, sixth part. And I desist, remove and separate from the right of possession, ownership and dominion, which I had and exercised over the said property, and all, together with the patronage, I cede, renounce and transfer to the vendee in order that as his own, obtained with just and legitimate title, he may dispose of same as he may see fit. And with regard to the eviction, security and warranty of this sale I bind myself
729 in such manner that now and at all times he shall be certain and secure, and against the property no lawsuit shall be brought, there shall be no embarrassment or contradiction, and if action be taken against same, as soon as I have knowledge of same and be called upon, I shall act in his behalf and defense, and I shall follow up the matter at my cost and instance until the vendee is left in quiet and tranquil possession, and in case of not being able to warrant the same I shall indemnify him the costs, damages, arrears, and loss occasioned him, by virtue of this deed, the notification thereof, and of the simple oath of these presents and the collection be lawful, of the person delaying the proof, investigation and liquidation offered for the prepared execution thereof although by law it may be required in order that I relieve him. And as a guarantee of fulfillment and stability thereof I bind my property which I now possess and may hereafter acquire with dominion and submission to the justice of the parties whomsoever they may be, to whose laws and jurisdiction I submit, and waive my own domicile and the law which says that the actor must follow the law of the defendant, in order that on the statement made I be obliged, compelled and urged to the full extent of the law and the Courts, and as a decision made in the mat-

ter res adjudicata I waive all other laws, statutes and rights in my favor, together with the law which prohibits making a general renunciation of same. And Jose Isidero Noriega being present at the execution of this deed, and having heard and understood the same, he stated: That he accepts the same in his favor under the terms by which the contract is drawn up. And the fee for this deed being paid the certificate covering same is inserted, the tenor of which is as follows: Bartolome Garcia de Paredes, Administrator of Collections of the Canton of Panama, certifies: That on sheet twenty-seven of the charge book in the registry division there appears the following entry: On the seventeenth of April, one thousand eight hundred and forty-one, I take charge of ten reals (dimes) macquina silver
730 (Note. "macquina," a special kind of silver currency, which was formerly current in Spain and her possession, circulating in Porto Rico as late as the middle of the last century) which Jose Isidero Noriega has paid as the registry fee of a deed of sale to be executed in favor of the farm named "Mata Redonda," situate in the territory of this city, in the sum of two thousand pesos in the form of a redeemable annuity and tax, which has been a lien on the property for past years. The respective certificate is issued to him for this payment and is signed.—Garcia de Paredes—Jose Isidero Noriega—One pesos two reals—Administrator of Collections of the Canton of Panama fha ut supro—Bartolome Garcia de Paredes. The document inserted agrees with its original, to which I, the Notary, refer. Made in the City of Panama, the twenty-sixth of April, one thousand and eight hundred and forty-one: and the gentlemen present with Tadeo Perez, who has also appeared as evidence of his office as trustee of the College of the Isthmus, and whom I certify as knowing,

as stipulated and signed, the witnesses thereto being Jose del Carmen Escale—Ysidro Lopez and Juan Iturralde—Josefa Miro—Ysidro Noriega—Tadea Per[illegible]. (There appears a sir name which is indecipherable) and Sevillano. Je. Victoriano Soto, Notary Public.

This second copy which I issue on two lawful sheets at the request of Mr. Guillermo Patterson, Jr., this the tenth of December, one thousand nine hundred and seventeen, agrees with the original thereof.

(Sgd.) FRANCISCO A. FACIO,
Notary Public No. 1.

731 EXHIBIT "K."

Number Forty-eight:—Jose del Carmen Rivera sells a piece of property. In the City of Panama, on the twenty-sixth day of March of the year eighteen hundred and fifty-nine, before me, Jose Brigido Martinez, principal Notary Public for this Department, and the witnesses whose names will be given hereafter, personally appeared Mr. Jose del Carmen Rivera, of age, a native and a resident of this city, whom I attest I know, and produced the minute which I insert and read as follows: "Mr. Notary Public for this Department: Please extend in your Register for public instruments and contracts, a warranty deed transferring to Mr. Felipe Maretlo and his wife, Maria de las Nieves Collet, residents of this city, my property known as the farm "Mataredonda," with all grounds used for pasture for the cattle when there were animals in the farm (at present there are none), for the sum of eight hundred gold pesos, the highlands for cultivation being included in the sale; and said sum of eight hundred pesos, in consideration of

which I sell the property, is to be paid within twenty-four months from this date, and said farm and its lands are pledged until its value of eight hundred pesos has been paid, and in case of delay in the payment, an interest of three per cent. per annum shall be paid, without impairing my rights to legal execution. Besides, the purchasers bind themselves expressly to acknowledge a quit-rent of one thousand pesos (eight-tenth pesos) at three per cent. interest which lies on said farm and its lands on behalf of Presbyter Fernando Arechua. You should also express for the sake of record that
732 the boundaries of the Mataredonda estate are from the "hollow rock known as Mataredonda, following a straight line up to Cerro Algarrobo, thence continuing to Cerro Vidrio and thence to Cerro Gordo, turning to the headwaters of Cardenas river downstream, up to the junction of the Palangana." Be pleased to add the usual clauses which may be necessary for the security and validity of this contract. Panama, March the tenth, eighteen hundred and fifty-nine. Jose del C. Rivera." The preceding minute agrees with the original copy to which I refer in case it were necessary. Therefore the seller states: First, that he has not previously sold, transferred or pledged the said lands of the "Mataredonda" farm, whose boundaries are described in the preceding minute; second: that these lands are free from any mortgage and they have no other lien upon them than the quit-rent of eight hundred pesos which they acknowledge in favor of Presbyter Fernando Achurra at the rate of three per cent. per annum, and whose capital the purchasers fully acknowledge; third: that he sells those lands with all their appurtenances in consideration of the sum of eight hundred pesos which should be paid to him by the purchasers within twenty-four months from the date of this deed; and that said

purchasers shall continue to acknowledge said sum of eight hundred pesos as a quit-rent in favor of the said Mr. Arechua. Fourth: that the real price of the lands and their true value is the sum for which he has sold them, and that should they be worth more he bestows the excess on the purchaser. Fifth: that from this date he dispossesses himself, desists, withdraws from himself and also from his heirs and assigns, the dominion and ownership, possession and any other rights he may have over said lands, and grants, renounces and transfers all of them on the purchasers, together with the corresponding actions. Sixth: that he confers on them the necessary power of attorney so that on their own authority they may take and enter into the possession and dominion of said lands, the copy of this instrument which will be given to them by the Notary
733 Public being sufficient title to that effect; seventh: that this sale is made certain, secure and real for the purchasers and that in case said purchasers were troubled or molested in the possession and dominion of said lands by anyone who might claim a right to them, the grantor, or his heirs and assigns, will give them full security and eviction, in accordance with the law, and eighth: that he renounces all rights and actions the law confers upon him to claim against the validity or for the rescission of this contract. Mr. Felipe Martelo and his wife, Mrs. Maria de las Nieves Collet, of age, and residents of this city, after the present writing had been set forth to them, stated: that they have heard and understood it and that they accept it as well as the sale to which it refers; that they will fulfill the duties which it imposes upon them, by paying when it falls due the sum of eight hundred pesos, which is the price for the sale, and by acknowledging, as is to be acknowledged, the lien for eight hundred pesos which lies

upon the lands; that they will pay the interest at the rate of three per cent. per annum at the end of each year to said Fernando Arechua or to the person who may legally represent him, and that as a security for the payment of the value of this sale and of the accrued interest, they expressly and especially mortgage to Mr. Jose del Carmen Rivera the aforementioned lands, which they agree not to dispose of until this mortgage is canceled, and should they do so, any transaction in connection with said lands shall be null, void and of no effect, in view of the priority of this deed or its copy or simply of the oath of the party legally entitled to receive payment, to which party they defer the evidence, investigations or accounting which might be necessary for the legal execution, from all of which they relieve said party although the law might require it; submitting to the Courts of any jurisdiction in case it were necessary to execute them or compel them to pay by any judicial means. And for the security and guarantee of the fulfilment of said duties the purchasers
734 pledge any property they own or may own in future and renounce any laws and rights which may favor them, including the law prohibiting the general renouncement of said laws; this general pledge is not de derogate or to impair the special one nor the latter is to derogate or impair the former, but both of them may be used jointly or separately. This instrument having been read to the interested parties, Messrs. Jose del Carmen Rivera, the seller, and Felipe Martelo and Mario de las Nieves Collet, the purchasers, all of them stated that they approved it as it was quite agreeable to them. In testimony whereof they extended and signed it before the witnesses Messrs. Fernando de Alba and Domingo Lopez Linares, who sign also before the under-

signed Notary Public who attests. J. del C. Rivera. Felipe Martelo. Maria de las Nieves Collet de Martelo. Fernando de Alba. Dom. Lopez Linares. Jose B. Martinez.

This second copy which I extend in two sheets, at the request of Mr. Guillermo Patterson, Jr., in Panama, on the sixth day of December, nineteen hundred and seventeen, agrees with the original instrument.

(Signed) FRANCISCO A. FACIO,
Notary Public No. 1.

(Seal: Republic of Panama, Notary Public No. 1, Circuit of Panama).

EXHIBIT "L."

Number Fifty—In the City of Panama, and before me, Jose Goti, substitute Notary Public of this Department, at present in the exercise of my office, personally appeared Mario de las Nieves Collet de Martelo, of lawful age, married, and a native and resident of this place, and Nasario Quintero, male, of lawful age, a native of Nieva, and a resident of Panama, known to me, and the first mentioned stated: That she has made a contract of purchase-sale with Nasario Quin-
735 tero for the farm Mataredonda, the details of which are set forth in the memorandum which, at the same time, she handed me in order that it might serve as a basis for this instrument, as well as the Court authorization by virtue of which she has made the said sale; and she requested of me that I draw up a public deed making the contract valid and secure; and having handed to me also the voucher which appears at the

foot hereof, by which the registry fee established by law is shown as having been paid; I proceed to draw up the present instrument following the insertion of the memorandum and Court authorization referred to, in the following order: "Mr. Notary—Please insert in the protocol of public contracts kept by you during the present year a bill of sale which, by authorization of the Departmental Judge, which authorization I attach hereto in order that you may kindly insert the same, by reason of my legitimate husband being mentally disqualified, I made to Nasario Quintero of the farm of Mata Redonda, together with all its lands and other appurtenances, for the sum of Eight Hundred Pesos fuertes under the following terms: Five Hundred in cash, and Three Hundred within the period of six months conputed [computed] from this date, which sum in case it be not delivered by that date shall draw two per cent. per month until payment is made. Furthermore, the vendee is under the express obligation of recognizing One Thousand pesos of eight-tenths which, at three per cent. per year, is a lien upon said farm and the lands thereof in favor of the priest Fernando Arechua, or the person legally representing him. You will also set forth that the eight hundred pesos, the price of the sale of the said farm, shall be delivered by the vendee, Mr. Quintero, in the manner above-mentioned, and, under the same terms, to Jose del Carmen Rivera, or to his order, to whom the same corresponds as I am owing the money to him in view of the fact that the farm in question was sold to me by this gentleman for the same figure, and I still owe him the money, the same being ex-
736 pressly and specially mortgaged for the payment also of the price thereof in favor of the said Mr. Rivera, for which the said mortgage shall only remain in force to cover the three hundred pesos in

question, by virtue of which it is this gentleman, or his representative, who equitably should receive the money, or, in other words, the amount of the sale of the property in question. The boundaries of the property are as follows: From the Pena Hueca of this name (Mata Redonda) a straight line to the hill of Algarrobo, and thence continuing to Vidrio Hill, and thence to Carro-gordo, running to the headwaters of the Cardenas river, downstream, to the adjoining ones of Palangana, all having reference to the titles which I deliver to him. You will likewise set forth that the farm in question belongs to me, and I do not acknowledge any other lien than the one hereinbefore mentioned; that the revenue of the aforementioned lien is only to be paid to Mr. Quintero from this day henceforth; that Nasario Quintero is in possession of the property, and that he as well as I waive all kinds of great damage, and we declare that the equitable price of the property is the said sum; that I also waive the exception non numerate pecunia; and both the exception of the thing not seen, fraud, deceit and all else in the premises. You, Mr. Notary, will add the other customary clauses, and by virtue of the fact that the vendee has made with me the contract in question, he signs, thereby evidencing that he accepts all the conditions thereof. Panama, the seventeenth of March, one thousand eight hundred and sixty-two—Maria de las Nieves Collet de Martelo—Nasario Quintero. To the Civil Departmental Judge—In order that the corresponding deed may be executed for the sale which I have made in favor of Nasario Quintero of the farm of Mataredonda, I beg of you that you kindly order, through the Secretary's office, that I be issued hereunder a true copy of the Order made by you the seventeenth of January of this year, authorizing me

to freely contract. Panama, March twentieth,
737 one thousand eight hundred and sixty-two—
Maria de las Nieves Collet de Martelo—Civil Court of the Department of Panama, the twentieth of March, one thousand eight hundred and sixty-two—as requested, at her cost—Urriola—The Secretary, Jose Dolores Urriola. On the same day I notified Maria de las Nieves Collet de Martelo—Collet de Martelo—Urriola—Civil Court of the Department of Panama, the seventeenth of January, one thousand eight hundred and sixty-two. As it appears from the proceeding proceedings that Felipe Martelo, husband and allied person of Maria Collet de Martelo, is crazy, in obedience to the request made, and to the provisions of the statutes fifty-eight and fifty-nine of Toro, the undersigned judge grants and gives permission to Mrs. Collet de Martelo to do all things for which the husband and might empower her if he were sane, the contracts, therefore, which by virtue of this license, she makes, and whatsoever else she does in procuring and in the defense of her own property, or of the marital union, being valid. Let notice issue, and let whatever copies that may be requested of these proceedings be given, filing the record as finished business. Uriola—The Clerk, Jose Dolores Urriola. The foregoing is a copy of the memorial and Order therein, to which, in all its parts I refer. Panama, twentieth of March, one thousand eight hundred and sixty-two. The Clerk, Jose Dolores Urriola. Also personally appeared before me Luis Urriola, male, of lawful age, and of this place, known to me, and stated: That, by virtue of the power of attorney which he exhibits as evidence, in order that it may be inserted in this deed and be returned to him, he accepts in all its parts, in behalf of his client, Jose del Carmen Rivera, the payment of the eight hundred pesos in the instalments as set forth in

the memorandum hereinbefore inserted, and declares that he has already received, in usual and current money of this place, the five hundred pesos fuertes in cash, which Nasario Quintero has delivered to him, and being under the obligation to come to an understanding with this gentleman for the three hundred pesos remain-
738 ing, which he must pay him within the period of six months computed from the seventeenth of the present month. Luis Urriola furthermore stated that, as the money has not been delivered in the presence of the undersigned Notary, in order that he might attest the delivery, he waives the exception of non-payment of said five hundred pesos, which his client and he himself could do, as he acknowledges satisfaction of same. The power of attorney in question reads as follows: "In the City of Panama, the twenty-ninth of May, one thousand eight hundred and fifty-six, before me, Jose Brigido Martinez, principal Notary Public of this Department, and the witnesses hereinafter mentioned, personally appeared Jose del Carmen Rivera, of lawful age, a native and resident of this city, known to me, and states: That he gives and confers ample and full power of attorney, according to law, empowering Luis Urriola, also a resident of this place, for the purpose of, representing his rights and actions at law, having, collecting and receiving, and collecting through the Courts or extrajudicially, from any and all persons whomsoever, all and any sums whatsoever of pesos or things owing him, or which in future may be owing him and which may belong to him, or be subject to acquirement by virtue of whatsoever title or reason, even though the same be not stated herein, as under this general power, it is desired that there be included and comprised any other special thing; and for that which he collects and receives to give receipts and cancellations

and other instruments deemed advisable, with the necessary security. That he also empowers him to take and request accounts from all persons under obligation to render same to the grantor of this power, disapproving items which are not regular, approving those which are proper, and demanding balances. That he likewise further empowers him in order that he may be able to make payment of any sum of pesos whatsoever that the grantor of this power may justly owe, provided that the debt appear to be legally verified, demanding
739 the necessary receipts and vouchers. That, if for all of the aforementioned, it becomes necessary to appear before the authorities, he shall appear before the competent authority with the complaints and documents in the matter at issue, making oath if required, making protests, giving information, evidence, making allegations and contradictions, requesting orders of execution, judicial compusion, attachments, releases, appeals, legal seizure or an execution, and public sale of property which he may take into this possession and under his charge, requesting all the conditions that may be granted him under the law, extension of the same, or waiving the same, challenging judges, Clerks of Court, and the other officers of the Court who may intervene, extending to them jurisdiction provided he may deem the same convenient, entering into compromises provided that it is to the interest of his client to do so, hearing Orders, interlocutory decisions and final judgments, acquiescing to that which may be favorable, and appealing from the unfavorable, and requesting, and interposing, and following all the appeals and process of the suit allowed under the law. That the power of attorney which, for the aforementioned and the issues thereof may be required and be necessary, is the power which he gives and confers on Luis Urriola, with free, open and

general administration, with the power of substitution, that to all, observing his orders, he relieves of costs. For the fulfilment, validation and security of all herein expressed, the grantor binds his property which he now possesses and hereafter may acquire, and waives all the laws, statutes and rights in his favor, together with the law which prohibits the general waiving of all of them in form. In witness whereof he so stipulated and signed in the presence of the instrumental witnesses to-wit: Jose Lara and Julian Noriega, who also signed along with me, to which I certify, as also that the grantor was notified that he must register this instrument within the twenty days following the date thereof. Jose del Carmen Rivera—Jose Lara—Julian Noriega—Jose Brigido Martinez. I was present at the execution
740 thereof, and after having made comparison with the original, which is found under the number sixty-five at folio one hundred and sixteen and over to folio one hundred and eighteen, in the registry of public contracts coming before me during the present year, I issue this first copy at the request of Jose del Carmen Rivera on three sheets of paper of the current seal in Panama, the thirty-first of May, one thousand eight hundred and fifty-six. Jose Brigido Martinez. This document is registered at sheets one hundred and ten and over to one hundred and eleven of the respective book. General Administration of the Treasury of the State. Panama, the thirty-first of May, one thoueight hundred and fifty-six. Jose Brigido Martinez. The three documents above inserted agree with the originals thereof, to which I refer in case of necessity; and in behalf of the aforementioned the vendor declares: First, that the farm Mata Redonda, referred to in this sale, is not sold, transferred nor pledged to any other person; second, that she recognizes the capital of one

thousand pesos of eight-tenths, or, in other words, of eight hundred pesos fuertes at an annual interest of three per cent in favor of the priest Fernando Arechua, or of the person lawfully representing him, and that, although this farm is mortgaged to Jose del Carmen Rivera, she sells it with the consent of the attorney for this gentleman in order to pay him with the proceeds thereof the amount for which it was mortgaged by her husband, Felipe Martelo; third, that the said farm she now sells, together with all the appurtenances thereunto appertaining, uses, and rights of way, in the sum of one thousand six hundred pesos fuertes, of which five hundred are in cash, three hundred in six months' time computed from the seventeenth of this month and year, and the eight hundred of the annuity already set forth; fourth, that the just price and real value of this farm is the said one thousand six hundred pesos in question, and that, if it be worth more, the excess, be it small or large, she relinquishes in favor of the vendee, pure, and perfect; fifth,
741 that from this date she dispossesses herself, separates, desists and relinquishes, as well as for her said husband, and for her heirs and successors, of the dominion or ownership, possession and all other right which they have in the said farm, and all of which she cedes, renounces and transfers to the vendee, together with the consequent rights of action at law; sixth, that she confers upon Nasario Quintero, vendee, the special power that may be required by law, in order that, on his own authority, he may take and enter into the possession, dominion and seigniory of the aforesaid farm, judicially or extrajudicially, the copy of this instrument which will be given him by the Notary serving him as sufficient title for the purpose; seventh, that this sale shall be certain, secure and effective to the vendee, and that, in the event that the vendee

be disturbed or molested in the possession or in the dominion by any person pretending to have a right to the former or the latter, the grantor, or her heirs and successors, and even her legitimate husband in case he regain his health, each one as the case may be, shall warrant and defend the title in conformity with the law, and until leaving the vendee in trahquil and pacific possession; and eighth, that she waives all the rights and actions at law which the laws may confer upon her to complain against the validity, or for the rescission of this contract. The vendee, Nasario Quintero, stated: That he has heard and understood the contents of this deed, and that he accepted the same by reason of same being in his favor; that he binds himself to pay within the period stated in the memorandum the three hundred pesos still owing; that this payment he will make to Jose del Carmen Rivera or to his legal representative; the same as the payment of the interest of the two per cent. which he also binds himself to pay upon said three hundred pesos in case he should not make the payment within the period stipulated; that he likewise recognizes in favor of the priest Fernando Arechua, of his legal representative, the eight hundred pesos fuertes, at the rate of three per cent. interest per year, which
742 figures as a lien upon the said farm; and to pay him the corresponding revenue at the rate of twenty-four pesos fuertes per year; and that, on his part, he also renounces the exception of the thing not seen, and all the rights, actions at law, and exceptions that may be conceded him by the laws, and that he might use, in their respective case, against the validity or for the annulment of this contract. Thereupon this instrument was read to the parties hereto, and Luis Urriola added: That, being authorized by the power of attorney above inserted to collect judicially and extraju-

dicially all the assets corresponding to his client, he has considered it expedient for Mr. Rivera, his client, to change as debtor as he has done, and permit that, in spite of the farm Mata Redonda being mortgaged, it be sold in order to thus facilitate the collection of the amount owing by Mrs. Collet de Martelo to Mr. Rivera. And upon this instrument being read to the parties hereto in the presence of the instrumental witnesses, Agustin Rafael Vidal and Juan Caselli, who, I think, are qualified to serve as such witnesses, they approved the same, and executed and signed before the said witnesses who also sign along with me, to which I certify, in Panama, the twenty-ninth of March, one thousand eight hundred and sixty-two.—Maria de las Nieves Collet de Martelo—Nasario Quintero—Luis Urriola. As witnesses, Agustin Rafael Vidal—Juan Caselli—Jose Goti, Substitute Notary Public. The General Administrator of the Treasury certifies: That at sheet five of the respective book and under the number forty-four, there appears a charge item reading as follows: Number fourty-four. "On the seventeenth of March a charge entry is made of four pesos paid by Nasario Quintero, as the registry fee of a deed of sale ordered made by Maria de las Nieves Collet de Martelo in favor of the said Nasario Quintero of the farm "Mata Redonda", for the sum of eight hundred pesos cash, of which there is exacted one-half per cent. of this fee, and with the lien of one thousand pesos of eight-tenths at the rate of three per cent per year, recognized as an annuity, in favor of Fernando
743 Arechua, covering which this registry fee is not demanded, according to law. The signature of the interested party verifies this entry. (fueracuatro) —Jose Maria Jovane—Nasario Quintero.—General Administration of the Treasury. Panama, the seventeenth

of March, one thousand eight hundred and sixty-two.—Jose Maria Jovane.

The foregoing agrees with the original thereof and the voucher thereto attached which is found under the number above indicated in the registry of contracts and public instruments which come under my charge during the present year, from where I have taken this first copy which I issue on these eleven sheets of legal cap paper of the seal current in the State at the request of Nasario Quintero, in Panama, the thirty-first of March, one thousand eight hundred and sixty-two.

(Sgd.) JOSE GOTI,
Substitute Notary Public.

First Copy
Fees with the original
nine pesos, twenty cents.
Art. 2372 of the Civil Code.
J. GOTI.

The same is registered at sheets 18 to 20 of the respective book. General Administration of the Treasury Panama, twenty-ninth of April, one thousand eight hundred and sixty-two.

J. M. JOVANE.

Across the face of the first sheet there appear the following indorsements:

The debt is cancelled on this date as appears from the instrument on file in the Protocol Book of the current year under the number thirteen. Panama, twenty-sixth of January, one thousand eight hundred and sixty-three.

JOSE B. MARTINEZ.

744 Cancelled with respect to the annuity which figured as a lien upon the property as appears from the instrument on file in the Protocol Book of the current year under the number two hundred and sixty-one. Panama, the eleventh of November, one thousand eight hundred and sixty-five.

JOSE B. MARTINEZ.

EXHIBIT "M".

Number Thirty-seven:—Nasario Quintero sells "Mata Redonda."

In the City of Panama, on the eleventh day of February of the year eighteen hundred and seventy-one, before me, Jose Brigido Martinez, Notary Public No. 1 of the Capital of this District and Department, duly qualified, and before the witnesses named hereafter, personally appeared Messrs. Nazario Quintero and Pedro Corsino Arauz, of age, according to their statement, the former forty-four years old and the latter thirty-three, both residents of this city, who are well known to me, and the said Mr. Quintero stated that he has entered into an agreement with Mr. Arauz, by which he has really sold and transferred forever to said Mr. Arauz a farm which he owns in this Department and that, as in accordance with the law, all contracts of this kind have to be completed by a Warranty Deed, he requests me, the undersigned Notary, to draw a deed for said sale and transfer, and that, to that effect, he exhibited, and he did so exhibit a minute which contains the clause of said contract, minute which is to be inserted as the basis of said deed. In compliance with my duty, I read to said parties article 22 of Law No. 11 included in the

Judicial Code, as an additional, explanatory and reformatory law to the Civil Code, and in view of said article, Mr. Quintero, the seller, stated that the requirements of the article which had just been read had been complied with in said minute. I must state also that the
745 registrar fees which are due for transactions of this kind have been duly paid, as shown on the Certificate made out by the proper fiscal employee; said certificate to be found at the end of this deed, in accordance with the provisions of the last paragraph of article seven hundred and six of said Civil Code, so that it may serve its purpose, when required. The aforesaid minute is inserted hereafter and reads thus: "Mr. Notary Public No. 1 of the Capital of this District and Department. Be pleased to draw a warranty deed stating the following: First. That I have sold to Mr. Pedro Corsino Arauz the farm which is owned by me under the name of "Mata Redonda", located in the vicinity of this city, in this Department, for the sum of three thousand two hundred and seventy-two pesos ($3,272.00) of which I have received two thousand and two hundred and seventy-two pesos ($2,272.00), the sum of one thousand pesos remaining still due; said sum to be paid within a year, that is to say on the 6th day of February, eighteen hundred and seventy-two, with accrued interest to be paid at the rate of one and a half per cent monthly, and the property is pledged until complete payment of the sum which is still due. Second: Said farm contains one hundred and eighteen heads of cattle and five horses, a newly constructed two-story house of wood and tile, two pasture grounds with their yards and stables, and the lands whose boundaries are: From the hollow rock called Mataredonda a straight line to the Cerro Algarrobo and thence continuing to Cerro Vidrio, thence to Cerro Gordo, turning to the headwaters of the

Cardenas river downstream to the junction of the Palangana creek and up this stream to where the Platanar creek joins it and on the latter upstream to its headwaters and thence a stright line to the first boundary, the spot called "Mataredonda". Third: That said property is free from all lien. Fourth: That the purchaser is in possession of it, and fifth: It is to be noted that the sum of one thousand pesos which, according to the terms of this minute, are still due and the accrued interest belong in full property to Mrs. Fran-
746 cisco Bernal to whom the interest shall be paid according to the terms agreed to with the purchaser, and that Mrs. Bernal shall also receive the capital when the term for payment shall have expired. You will please add the clauses that may be necessary for the validity of the deed to which this minute refers. Panama, on the seventh day of February, eighteen hundred and seventy-one. Nazario Quintero. "The foregoing is a true copy of the exhibited minute to which I refer. I, the Notary Public. In consequence, the seller in the best way and form states: First: That he has not sold, transferred or pledged previously to another party the farm described in the preceding minute and which he has sold to said Mr. Pedro Corsina Arauz, according to the agreement which is now made perfect by this deed, in accordance with the provisions of second paragraph of article nineteen hundred and one of said Civil Code; second: that the aforesaid farm is free from all liens, rights of way, quit-rents or mortgages; third: that he has sold same with the number of heads of cattle aforesaid, house, pasture, grounds, yards, stables, lands and all appurtenances which may belong to it in fact or according to law, in consideration of and for the sum of three thousand two hundred and seventy-two pesos, of which he states he has received in cash and

to his entire satisfaction two thousand two hundred and seventy-two pesos from the purchaser in lawful currency, and the balance of one thousand pesos is to be paid by the purchaser at the expiration of the term of one year from the sixth instant, to him or to Mrs. Francisca Bernal, to whom this sum belongs, as well as the accrued interest; and that, as the payment of the sum of two thousand two hundred and two pesos in cash has not been made in the presence of the undersigned Notary Public so that he may give faith, he renounces the legal exception which refers to money not counted, seen or delivered, its evidence, fraud, deceit and other exceptions; fourth: that the real price and true value of the farm and appurtenances aforesaid is three thousand two hundred and seventy-two pesos at which sum he
747 has valued them when the sale was agreed to by him; fifth: that he dispossesses himself, desists and withdraws, and also his heirs and assigns, of the dominion or ownership, possession and any other rights of property which he had and possessed heretofore in said farm and that he grants resigns and transfers all of these rights to the purchaser and his assignees with all the corresponding actions; sixth: that as the purchaser is already in real and effective possession of the aforementioned farm, the first copy of this indenture which will be given him by the Notary Public will be sufficient title, as soon as it has been registered, to retain the ownership of same; seventh: that this sale shall be effective and real to Mr. Arauz and that in case he should be disturbed and molested in the possession or dominion of the aforesaid property by any persons who might claim a right to same, the grantor or his heirs or assignees will be bound to eviction and security in conformity with the law until the purchaser be in quiet and peaceful possession of same; and eighth: that

he renounces any rights or actions the laws may confer upon him to claim against the validity of this deed or to rescind his agreement. The purchaser stated, on his turn, that, on accepting this deed,—as he does accept it,—he promises to fulfil the duties which it imposes upon him, to pay Mrs. Francisco Bernal at the expiration of the term aforementioned, the sum of one thousand pesos which he still owes and at the end of each month the accrued interest and that in security for the payment of the principal and interest which may be due and outstanding he expressly and specially mortgages the property purchased by him with everything it contains, and will not dispose of same until this mortgage has been cancelled, and should he do so, any other agreement which may pledge the property, shall be null, void and of no effect, on the presentation of this indenture or its copy or on the affidavit of the party who is legally entitled to receive payment, on which party he differs the evidence and investigation which may be required for its execution, as he relieves said party of
748 those duties although they might be required by law; second: that for the validity and fulfilment of all his duties, he pledges all the properties he now owns, provided that the special pledge shall not invalidate nor prejudice the general one nor shall this latter abolish nor prejudice the former, and that, if necessary, his creditor may take advantage of both rights jointly or separately, and to that effect he renounces his domicile and residence in case he has to be judicially compelled to payment and renounces also any rights, action and exceptions to which he is entitled by the laws and which he might otherwise use against the validity of this contract or for the rescission of same. This indenture having been read to both parties, was approved by them and they promised to fulfil their duties in ac-

cordance with the law. In witness thereof they signed their names hereon, In witness thereof they signed Cajar and Jose Juan Diaz, who, to the best of my knowledge, are duly qualified to act as such in accordance with article two thousand seven hundred and ninety-four of the Civil Code and who signed also their names together with the undersigned Notary Public. The parties were informed that, in order to give this Warranty deed a legal validity and so that the transfer of ownership take place, they must have the first copy of this indenture recorded with the Registrar's Office within twenty days following the date of same. J. Nazario Quintero. Pedro C. Arauz.—Domingo Cajar.—Juan Jose Diaz.—Jose B. Martinez, Notary Public No. 1. This is to certify: That on page 19 of the Receipt Book of the Registrar's Office, under No. 57, the following item is found: On the tenth of February of the year eighteen hundred and seventy-one Jose Brigido Martinez paid eighteen pesos and 25 cents, as the registration fee for a deed that Nazario Quintero will draw as a warranty for the sale of the farm he owns under the name of "Mata Redonda", located in the vicinity of this city, whose sale he has agreed to with Pedro Corsina Arauz for the sum of three thousand two hundred and seventy-two pesos, of which two thousand two hundred and seventy-
749 two pesos shall be paid in cash and one thousand pesos, together with the accrued interest at the rate of one and a half per cent. monthlys, at the end of one year counted from the eighth instant, to Mrs. Francisca Bernal. E. Briceno. Jose B. Martinez. The Administrator General of Finance, E. Briceno.

This second copy, which I issue in three sheets, at the request of Mr. Guillermo Patterson, Jr., on the seventh

day of December of the year nineteen hundred and seventeen, is a true copy of the original warranty deed.

FRANCISCO ANTONIO FACIO,
Notary Public No. 1.

EXHIBIT "N".

Pedro Corsino Arauz Sells a Property to Jose Zayas Batista.

Number Two Hundred and Twelve: In the City of Panama, Sovereign State of Panama, United States of Colombia, on the twenty-fifth day of the month of August of the year one thousand eight hundred and seventy-six there appeared before me, Jose Brigido Martinez, Notary of the Capital District and of the Department of Panama, Pedro Corsino Arauz, resident of this city, of lawful age, known to me, and stated: That he gives in actual and perpetual transfer to Jose Sayas y Batista, of this place, and of lawful age, to-wit: a cattle ranch: That, in order that the undersigned Notary may proceed to draw up a public deed, by means of which, in accordance with law, the contract and the sale may be perfected, he exhibits a memorandum which, following the insertion thereof, is to serve as a basis for the said instrument. In compliance with the obligation imposed on notaries by article twenty-five of Act eleven of the Compilation of various laws, in the presence of
750 the instrumental witnesses, I read to the makers articles twenty-two and twenty-three of the Act in question, the first of which articles makes it obligatory on contracting parties to set forth in every title conveying real estate, if the subject matter be rural property, in a clear and definite manner, the District in which same is located, its boundaries roundabout, and

the dividing line with each of the properties bounding same; and with knowledge thereof the vendor stated that in the memorandum exhibited the requirement of the said article has been complied with, (that is to say, the first article), in so far as possible. As documents of this class are subject to the payment of the registry fee, the corresponding fee for this instrument has been paid in advance, as appears from the certificate issued by the proper fiscal employe in connection with said payment, as authentic voucher which, in accordance with the provisions of the last part of article two thousand seven hundred and six of the Civil Code, is attached hereto in order that at the proper time it may appear inserted in the copy or copies taken of this deed. The memorandum in question is hereunder inserted, and reads as follows: Mr. Notary of the Capital District and of the Department—Please draw up a deed in which the following be made to appear: First—That I have sold to Jose Zayas Batista the rural property belonging to me called "Mata Redonda", situate on the outskirts of this Capital District within this Department, for the sum of three thousand five hundred pesos ($3,500.00) current money, payable under the following terms: Five hundred pesos the first of September, one thousand eight hundred and seventy-eight, and thereafter five hundred pesos on the same date each year until the entire amount is paid. Second—The vendee shall pay interest at the rate of ten per cent per year upon the sum owing by him of the price of the property, payment of which shall be made as due at the end of each month, either to the vendor or the person representing him. Third—The property sold is expressly mortgaged as security or payment of the principal and interest. Fourth—The vendee
751 may not dispose of the cattle on the property until he shall have paid at least the half of the sell-

ing price. To this end the vendor reserves the right to visit the property and count the live stock for the purpose of verifying compliance with this provision. The sale of stock, in the aforesaid case, shall produce the effect that the entire amount will be considered as due and owing, and that final judgment may be rendered against the vendee for the payment thereof. Fifty—The said property consists of ninety head of cattle and two horses, one corral, a frame and tile house, and the lands, the boundaries of which are as follows: From the "Pena Hueca" of this name (Mata Redonda) a straight line to the hill of the Algarrobo, and thence continuing to the hill of Vidrio, and thence to Gordo Hill, circling around to the headwaters of the river Cardenas, down stream, to the junction of the Palangana, and from this stream, upstream, to the stream Platanar, thence to its headwaters, and thence, a straight line to the first boundary. Therefore the property is bounded on the north by the lands of Lucha Franco, belonging to Pantaleon de la Guardia; on the south by the lands of the properties San Jose and Pan de Azucar, belonging respectively to Carlos Icaza and Francisco Antonio Hurtado; on the east by the lands called "Lo de Caceres", owner unknown to me; and on the west by the lands called El Guanabano, which are said to belong to a Mr. Tallaferro, (y los terrenos cuyos linderos son: desde "la Pena hueca" de este nombre (Mata Redonda), linea recta al Cerro del Algarrobo y en sequimiento al Cerro de Vidrio, y de alli al Cerro Gordo, volteando a las cabeceras del rio Cardenas, aguas abajo hasta la junta de la palangana y de esta aguas arriba hasta la quebrada del Platanar, enseguida hasta sus cabeceras, y de alli linea recta al primer lindero. Por consiguiente esta la hacienda limitada al Norte, con los terrenos de Lucha-Franco propriedad del Senor Panta-

leon de la Guardia; al Sur; con los terrenos de las haciendas San Jose y Pan de Azucar, perteniciente respectivamente a los senores Carlos Icaza y Fran-
752 cisco Antonio Hurtado; al Este, con los terrenos llamados Lo de Caceres, cuyo dueno no conozco por el Oeste, con los terrenos llamandos El Guanabano, que se dicen corresponden a un senor Tallaferro). Sixth—That the vendee is already in possession of the property. You will please add the other clauses to make this contract secure, valid and legal. Panama, the twenty-third of August, one thousanl eight hundred and seventy-six.—Pedro C. Arauz".—The matter inserted being entirely in accord with the memorandum exhibited the vendor declares; First: That he has not sold, transferred nor pledged the said property. Second —That it is free of all lien, tax and mortgage. Third —That he sells the same together with its lands, house, the number of head of live stock set forth, and other appurtenances, for the sum of three thousand five hundred pesos to be paid by the vendee under the terms hereinabove stipulated, paying the interest of ten per cent per year in proportion to the amount owing. Fourth—That the fair price of the said property and its real value is the said three thousand five hundred pesos, and that if it is worth more he donates to the vendee everything over and above that amount. Fifth—That on this same date he has delivered the said property, together with the resulting interests. And Sixth—That he will forever warrant and defend the property sold. The vendee declares: First—That, on his part, he will comply with the obligations imposed upon him by this contract, paying, consequently at the time stipulated the amount stated of five hundred pesos, and paying each month the respective interest at the rate stipulated. And Second—That as security for the payment he mort-

gages the said property under the boundaries mentioned together with the house and live stock set forth. And this instrument having been read to the interested parties they stated that they approved the same, and sign, all in the presence of the instrumental witnesses, Pedro Jose Sosa and Hortencio Gamboa, residents of lawful age, not disqualified by law, and who likewise sign along with me, to which I certify. The makers were
753 advised that in order to make this instrument legally valid as to the conveyance of ownership, and that the mortgage thereon may be binding, they must cause to be entered in the General Administraion of the Treasury, the office designated for the registry of instruments of this class being in this Department, the first copy taken of same within the twenty days following the date thereof. Pedro C. Arauz, Jose Zayas y Batista—Pedro J. Sousa— H. Gamboa—Jose B. Martinez, Notary Public. The General Administrator of the Treasury certifies that at folio one hundred and forty, over, of the collection book of registry fees, under the number two hundred and eighty, there appears the following entry: "On the twenty-fifth of August, one thousand eight hundred and seventy-six, Jose Brijido Martinez paid thirty-one pesos and eighty cents as the registry fee of a deed to be executed by Pedro Corsino Arauz, giving in sale to Jose Zayas Batista, a piece of rural property belonging to him called "Mata Redonda", situate on the outskirts of this city, for the sum of three thousand, five hundred pesos, payable in the following manner: Five hundred pesos the first of September, one thousand eight hundred and seventy-eight, and five hundred each year thereafter on the same date until completing the aforesaid amount, paying interest at the rate of ten per cent per year on the proportionate amount he may owe the vendee on the selling price of the property.—Francisco

Jimenez Arce—Jose B. Martinez—Francisco Jimenez Arce.

This fourth copy, which I issue on three sheets of legal cap for Mr. Guillermo Patterson, Jr., this the tenth day of December, one thousand nine hundred and seventeen, agrees with the original thereof.

(Sgd.) FRANCISCO A. FACIO,
Notary Public No. 1.

754 EXHIBIT "O".

Number Two Hundred and Eighty-One—In the City of Panama, Sovereign State of Panama, United States of Colombia, on the twenty-first day of the month of November of the year one thousand eight hundred and eighty-three, there appeared before me, Jose Brigido Martinez, Notary Public Number One of the Capital District and of the Department of Panama, Jose Mercedes Maytin, resident of this city, of lawful age, known to me, and stated: That in his capacity as Civil Judge of this Department he has given in actual sale and perpetual transfer, as deliverer of possession, at public auction to Juan Sainthois, also of this place and of lawful age, to-wit: A cattle ranch known under the name of "Mata-redonda", that, in order that the undersigned Notary proceed, in accordance with the provisions of the first paragraph of article one thousand nine hundred and one (1,901) of the Civil Code of the State, to draw up a public deed, as requested by the judgment creditor by means of which the transfer may be perfected, he has transmitted to this office an official note and the proceedings which were had in connection with the sale, and referred to in said note, in order that the same may be inserted in the said instrument which he orders entered.

In compliance with the duty imposed upon notaries by article twenty-five (25) of law eleven of the Compilation of various laws, I read to the makers in the presence of the instrumental witnesses article twenty-two (22) and also article twenty-three (23) of the said law, the first of which requires of the contracting parties that in all titles of conveyance of rural property, they clearly and precisely set forth the location of the property, the other properties bounding same, and the dividing line with each one of them; and with knowledge thereof Judge Maytin stated that in the proceedings of the sale, or, in other words, in the the copy thereof transmitted to this office, the requirement of the article first mentioned has been complied with. As documents of this class are subject to the payment of the registry fee, the un-
755 dersigned Notary hereby enters of record that the corresponding fee for this instrument, as required by law, has been paid in advance, as appears by the certificate issued by the proper fiscal employe in connection with said payment, an authentic voucher which, in accordance with the provision of the last part of article two thousand seven hundred and six (2,706) of the Civil Code, is attached hereto in order that at the proper time it may appear inserted in the copies taken of same. The official note and the copy of the proceedings of the sale, hereinabove referred to, are inserted hereunder, and the one following the other read verbatim as follows: "United States of Colombia, Sovereign State of Panama—Civil Court—Number three hundred and seventy-eight (378)—Panama the sixteenth (16) of November, one thousand eight hundred and eighty-three—Mr. Notary Number One—Present—For the corresponding public deed I transmit to you some copies setting forth the Court sale adjudged the thirty-first (31) of October last to Juan Saintbois of the rural

property "Mata Redonda". Said deed will be also signed by the undersigned as the party delivering the seizing. Yours truly—(Signed) J. M. Maitin."—"To the Civil Judge—The thirty-first (31) of October last past, before you, the sale at public auction was made of the cattle ranch called "Mata Redonda", which sale was declared in my favor as the best and highest bidder. I request of you to make an order that through the office of the Clerk there be issued a copy of the proceedings of the sale, of the proceedings covering the delivery of the amount realized by the sale, of the Order wherein you approved the same, and of the note in which it is shown that it has been registered in the respective Treasury office. I request said copy in order that it may be transmitted to Notary Number One of this Department for the purpose of drawing up in my favor the corresponding deed of conveyance, in accordance with the first paragraph of article one thousand nine hundred and one (1,901) of the Civil Code of the State—Panama, the thirteenth (13) of November, one thousand eight 756 hundred and eightythree. J. Saintbois—"Civil —Panama, the fifteenth (15) of November, one thousand eight hundred and eighty-three—Hereunder and at the cost of the petitioner let the copy requested be issued and transmitted to Notary Number One in order that he may draw up the corresponding public deed to be signed by Mr. Saintbois—Maitin—Melendez, Clerk. I notified Juan Saintbois—Melendez, Clerk—In the city of Panama, at ten (10) o'clock of the forenoon of the thirty-first (31) day of October, one thousand eight hundred and eighty-three, the Court sale under free bid of the rural property called "Mata Redonda", comprised with the Regiduria of Calidonia, in the Capital District, and appraised in the sum of five thousand four hundred and ninety-nine pesos and thirty-three cents ($5,499.33), in-

cluding its lands, fifty-one (51) head of cattle, one horse, and a pasture of Guinea grass thereon, was opened for the purpose of paying an amount of money which the owner thereof, Jose Sayas Batista, owes to the plaintiff, Pedro Corsino Arauz—For this purpose, the auction cries required by law having been given, Pedro Corsino Arauz offered for same two thousand pesos ($2,000.00). Upon this offer being announced Juan Saintbois offered two thousand five hundred ($2,500.00). This bid being also announced the said Mr. Arauz raised the bid to two thousand five hundred and fifty ($2,550.00). This bid being also announced, Juan Saintbois raised it to two thousand six hundred pesos ($2,600.00). At this stage of the proceedings the hour of four (4) p/m struck, and the Judge ordered that notice be given of the sale of the said property, which was done by giving three (3) auction cries repeated at short intervals, and the bid not having been bettered, the sale was declared made in favor of Juan Saintbois who accepted the same for the use of two thousand six hundred pesos ($2,600.00), and with the following boundaries: From the Pena Hueca of this name "Mata Redonda", a straight line to the hill "Algarrobo", and thence continuing to the hill "Vidrio",
757 and thence to the hill "Gordo", circling around to the headwaters of the river Cardenas, downstream to the junction (sic) of the stream "Palangana", and from this stream upstream, to the stream "Platanar", thence this stream, upstream, to its source, and thence, a straight line to the "Pena Hueca" —It is bounded: On the north by the lands of Lucha Franco, belonging to Pentaleon de la Guardia; on the south, by the lands of the "San Jose" property, belonging to Carlos Zcaza Arosemena; on the east by the lands called "Lo de Caceres", belonging to the heirs of Jose Garcia de Paredes; and on the west by the lands

of the "Guanavano", belonging to Manuel Jallaferro (sic) —(y con estos linderos: Desde la Pena Hueca de esta nombre "Mata Redonda" linea recta al cerro del "Algarrobo" y seguida mente al cerro de "Vidrio" y de alli al cerro "Gordo", volteando a las cabeceras del rio Cardenas aguas abajo hasta le juncta de (sic) la qubrada de la "Palangana" y de este aguas arriba hasta la quebrada del "Platanar", en seguida esta aguas harriba hasta su cabecera y de alli linea recta, a la "Pena Hueca" —Esta limitada: Al norte, con los terrenos de Lucha Franco, propiedad del Senor (Pantaleron) Pantaleon de la Guardia; al Sur, con las terrenos de la hacienda "San Jose", perteneciente al Senor Doctor Carlos Ycaza Arosemena; al Este, con los terrenos donominados "Lo de Caceres" pertenecientes a los herederos de Don Jose Garcia de Paredes, y los el Oeste, con los terrenos del "Guanavano" que pertenecen al Senor Manuel Jallaferro (sic)—These proceedings were thus closed, which are signed as a matter of record—The Judge, J. M. Maitin —J. Saintbois, Lino Melendez, Clerk—In the city of Panama, on the first of November, one thousand eight hundred and eighty-three, at the office of the Civil Court, personally appeared Juan Saintbois and deposited the sum of two thousand six hundred pesos ($2,600.00) amount bid by him yesterday for the property called "Mata Redonda"—J. M. Maitin—Juan Saintbois— Lino Melendez—Clerk, Civil Court, Panama, the first of November, one thousand eight hundred and eighty-three—

758 It appearing of record that payment has been made of the sum of two thousand six hundred pesos ($2,600.00), sum in which the "Mata Redonda" property was sold at public sale, and all formalities of the law having been observed in connection with the sale, the Civil Court, administering justice in the name of the Republic and by authority of the

law, confirms the same; and, therefore, orders that the proceedings in connection with said sale and subsequent proceedings, up to the present Order be registered in the respective General Administration of the Treasury. Let notice issue—Maitin—Melendez, Clerk. I notified Ezequiel Villamil—Villamil—Melendez, Clerk—And Juan Saintbois—J. Saintbois—Melendez, Clerk. Juan Saintbois paid fifteen pesos and sixty cents as the registry fee of the auction proceedings of the "Mata Redonda" property and of the proceedings, which proceedings are duly registered in book number two, fourth volume, folios forty-four to forty-six—General Administration of the Treasury. Panama, the sixth of November, one thousand eight hundred and eighty-three—Juan Pablo Arias (seal). Panama, the sixteenth of November, one thousand eight hundred and eighty-three. Lino Melendez, Clerk." The matter inserted agrees with the official note and the copy referred to therein, and which have been transmitted to this notarial office. By virtue whereof, and Jose Mercedes Maitin, Civil Judge of this Department as above stated, and Juan Saintbois, being present, and this instrument having been read to them, they stated as follows: the first mentioned; that the Court over which he presides having complied with all the formalities required by law in effecting at public auction the sale of the property in question, by these presents he declares the sale perfected; and Juan Saintbois stated: That he accepts the sale. And they sign, all in the presence of the instrumental witnesses, Osvaldo Arango and Antonio Aldrete, residents, of lawful age, and who are not disqualified by law, and who likewise sign with me, to which I certify. Mr. Saintbois was advised that he must cause to be registered the first copy taken
759 of this deed in order that it may have legal value. J. M. Maitin. J. Saintbois. Osvaldo Ar

ango—Antonio Aldrete—Jose B. Martinez, Notary Public Number One. The General Administrator of the Treasury certifies that at folio eighty-five of the collection book of registry fees, under the number one hundred and fifty, there appears the following entry: "On the nineteenth of November, one thousand, eight hundred and eighty-three, Jose B. Martinez paid fifteen pesos and sixty cents as the registry fee of a deed to be executed by the Civil Judge of the Department of Panama, in his capacity as the party delivering the seizin, perfecting the sale which he has made at public auction to Juan Saintbois for the sum of two thousand six hundred pesos of the cattle ranch called "Mata Redonda", comprised within the Regiduria of Calidonia, belonging to Jose Sayas Batista.—Juan Pablo Arias—Jose B. Martinez". Juan Pablo Arias (Seal). (The word "Pantaleron" appearing in the Spanish description of the boundaries is void, as per note at the foot of the deed.

This copy, which I issue on three sheets and deliver to Mr. Guillermo Patterson, in Panama, the fourth of April, 1913, agrees with the original thereof.

FRANCISCO A. FACIO,
Notary Public No. 1. (Seal)

EXHIBIT "P".

Number Two Hundred and Ninety Two: In the City of Panama, Sovereign State of Panama, United States of Colombia, on the nineteenth day of the month of November of the year one thousand eight hundred and eighty-four, there appeared before me, Jose Brigido Martinez, Notary Public Number One of the Capital District and of the Department of Panama, Juan Saintbois, a resident of this city, of lawful age, known to me, and stated:

That he gives in actual sale and perpetual transfer to Jose Sayas Batista, also of this place and of lawful age, to-wit: the cattle ranch known under the name
760 of "Mata Redonda"; that, it being necessary to perfect this contract by a public deed, duly registereld, as, according to the provisions of the first paragraph of article one thousand nine hundred and one of the Civil Code of the State, the sale of real estate is not considered perfect in the eyes of the law until these formalities are complied with, in order that the undersigned Notary may proceed to draw up a deed, a memorandum is filed, with which is attached a copy of some Court proceedings had in connection with said real estate; the first mentioned for the purpose of, following its insertion, serving as a basis for the instrument drawn up, and the second, in order that it may appear inserted in the body thereof. In compliance with the duty imposed upon notaries by article twenty-five of statute eleven of the compilation of various laws, I read to the makers hereof, in the presence of the instrumental witnesses, articles twenty-two and twenty-three of the said law, the first of which—if the matter in question is a farm—requires that there be determined with clearness the other properties which serve as boundaries, and the dividing line with each one of them; and in accordance therewith the vendor stated that in the memorandum filed by him there appears insofar as it has been possible —the data required by the article first cited of the law in question. As documents of this class are subject to the payment of the registry tax, the undersigned Notary hereby enters of record that the corresponding fee for this document, as required by law, has been satisfied in advance, as is shown by the authentic certificate which, in accordance with the provision contained in the last part of article two thousand seven hundred and six of

the Civil Code, is attached at the end of this document in order that it may appear inserted in the copies taken of same. The memorandum and copy above mentioned are inserted hereunder, and the one following the other, reading verbatim, as follows: "Mr. Notary Number One of the Capital District. Please draw up in your protocol of the present year a deed of purchase/sale in
761 which there be shown that I, Juan Saintbois, of lawful age, and a resident of this city, sell to Jose Sayas Batista, of lawful age, and a resident of this city, the cattle ranch "Mata Redonda", comprised within the Regiduria of Calidonia of the Capital District. The boundaries are: From the "Pena Hueca" of this name "Mata Redonda', a straight line to the hill of "Algarrobo", and thence continuing to the hill of "Vidrio", and thence to "Gordo" hill, circling around to the headwaters of the river "Cardenas", down stream, to the junction of the stream "Palangana"; thence, this stream, upstream, to its headwaters, and thence, a straight line to the "Pena Hueca". (Desde la "Pena hueca" de este nombre "Mata Redonda", linea recta al cerro del "Algarrobo", y seguidamente al cerro del "Vidrio", y de alli, al cerro "Gordo", volteando a las cobeceras del rio "Cardenas", aguas abajo, hasta la quebrada de la "Palangana", y de esta aguas arriba, hasta le quebrada del "Platano"; en seguida esta, aguas arriba, hasta su cacecera; y de alli, linea recta a la Pena Hueca"). It is bounded: On the north by the lands of "Lucha Franco" belonging to the heirs of Pantaleon de la Guardia; on the south by the lands of the farm "San Jose" belonging to Dr. Carlos Icaza Arosemena, on the east by the lands called "Lo de Caceres" belonging to the heirs of Jose Garcia de Paredes; and on the west by the lands of "Guanabano" belonging to Manuel Tallaferro. (Al Norte, con los terrenos de "Lucha

Franco", pertenecientes a los herederos del senor Pantaleon de la Guardia; al Sur, con los terrenos de la hacienda "San Jose"; perteneciente al senor Doctor Carlos Icaza Arosemena; al Este, con los terrenos denominados "Lo de Caceres", pertenecientes a los herederos de Don Jose Garcia de Paredes; y por el Oeste, con los terrenos del "Guanabano," que pertenecen al Senor Manuel Tallaferro). The animals on the place consist of fifty-one head of cattle and one horse. I obtained this farm at a public Court sale, as is shown by deed number two hundred and eighty-one, executed before No-
762 tary Number One of the Capital District, Jose Brijido Martinez, the twenty-first of November, one thousand eight hundred and eighty-three, of which I deliver to the vendee the first registered copy. I made the purchase for two thousand pesos, and for this purchase I received from Jose Sayas Batista six hundred and I put two thousand pesos in cash which I received from the vendee to my satisfaction. I enclose with this memorandum some copies which you will please insert in the deed as evidence of the non-encumbrance of the farm, which is free of all encumbrance, and in that condition I sell it, and also free of the mortgage lien, and the obligation of Jose Sayas Batista to Pedro Corcino Arauz, which served as the grounds for the Court sale, being entirely canceled. You will, Mr. Notary, attend to the necessary legal requirements for the validity of the contract and the deed. Panama, the twelfth of November, one thousand eight hundred and eighty-four. Jose Zayas Batista—J. Saintbois." To the Civil District Judge. It is to the interest of the rights of my client, Jose Sayas Batista, and I request that you order given me hereunder, and at his cost, following notice to Jose Maria Vives Leon, attorney of Pedro Corcino Arauz, an authentic copy of the documents in the file of the

executory action brought by Pedro Corcina Arauz against my client, which I shall now enumerate: First—Of the Order of the sixth of November, one thousand eight hundred and eighty-three (sheet seventy-eight), and of the notifications thereof; Second—Of the pleading of Juan Saintbois of the eighth of February of the present year (eighty-seven); of the Order made in connection with this pleading and the notifications thereof; Third—Of the compromise drawn up of the fifth of the present month of May; of the note of personal presentation; of the Order of the seventh of this month in connection with this paper, and of the notifications; Fourth—Of the Order of the fifteenth of this month (sheet eighty-nine), declaring final the Orders of the sixth of November, one thousand eight hundred and eighty-three (sheet seventy-eight), the third of the present month of May (sheet eighty-seven), and the
763 seventh of the same month of May (sheet eighty-eight over), and the notifications thereof. Panama, the seventeenth of May, one thousand eight hundred and eighty-four. Carlos Icaza Arosemena."—Civil Court. Panama, the seventeenth of May, one thousand eight hundred and eighty-four—With notice to Jose Maria Vives Leon, attorney of Pedro Corcino Arauz, let the copy requested be issued hereunder, and at the cost of Jose Sayas Batista. Let notice issue—Aleman—Melendez, Clerk.—I notified Carlos Ycaza Arosemena—Ycaza Arosemena—Melendez, Clerk.—And Jose Maria Vives Leon—Vives Leon—Melendez, Clerk.—Civil Court. Panama, the sixth of November, one thousand eight hundred and eighty-three—The sale of the property called "Mata Redonda" through execution of Pedro Corcino Arauz having been made, the Court decrees the raising of the embargo on same, declaring released the consequent deposit and mortgage. Let notice issue to the

receiver for the purpose of the law.—Maitin—Melendez, Clerk—I notified the receiver, Francisco Antonio Hurtado—Hurtado—Melendez, Clerk. To the Civil Judge of the Capital District. The "Mata Redonda" property was sold for the payment of a mortgage credit. I purchased it at a Court sale and made delivery of the money. With that money the creditor paid himself, and the remainder was deposited. It is clear that, by virtue of the sale, the property was free of the mortgage credit. I, therefore, have to request that you order that the attorney of Corcino Arauz cancel the mortgage deed. Panama, the eighth of February, one thousand eight hundred and eighty-four. J. Saintbois.—Filed today the eighth—Melendez, Clerk—Civil Court—Panama, the third of May, one thousand eight hundred and eighty-four. The quest made in the foregoing memorial being just, the Court orders that the attorney of Pedro Corcino Arauz proceed to draw up the deed of cancellation of the mortgage, by which the property called "Mata Redonda," sold at public sale by the petitioner, will be free. Let notice issue—Aleman—Melendez, Clerk. I notified Juan Saintbois—J. Saintbois—Melendez, Clerk—I notified Jose Maria Vives Leon—Vives Leon—Melendez, Clerk—And Carlos Ycaza Arosemena—Ycaza Arosemena—Melendez, Clerk. To the Civil Judge—The undersigned Jose Maria Vives Leon, attorney of Pedro Corcino Arauz, and Carlos Ucaza Arosemena, attorney of Jose Zayas Batista, the last mentioned empowered to effect a compromise, and the first mentioned sufficiently and amply empowered for the same purpose, according to letter of the second of April of the present year, have agreed to effect a compromise, as in fact we do compromise, of the suit and the prayer for costs pending in your Court, the main suit the collection of costs, and all and every claim of the one

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against the other, for the sum of seven hundred pesos which was on deposit, proceeding from the Court sale of the property "Mata Redonda," being thereby cancelled. You will please approve this compromise, and order filed the respective proceedings. Panama, the fifth of May, one thousand eight hundred and eighty-four—Carlos Ycaza Arosemena—Jose Maria Vives Leon." This memorial has been presented by the signers thereof in person to the Judge in the presence of the undersigned Clerk. Date ut supra—the Judge—Jose Maria Aleman—The Clerk, Lino Melendez—Civil Court—Panama, the seventh of May, one thousand eight hundred and eighty-four. Carlos Ycaza Arosemena and Jose Maria Vives Leon having been empowered to effect a compromise, as per the powers of attorney filed in the case, the civil Court considers as effected the compromise referred to in the preceding memorial of the said gentlemen, all claims of the one against the other, therefore, being terminated, the mortgage on the property "Mata Redonda" in consequence thereof canceled, as provided for in the Order of the sixth of November of the past year, and the obligation deed being likewise canceled. Let notice issue and the record be filed—Aleman—Melendez, Clerk—I notified Jose Maria Vives Leon on the eighth—Vives Leon—Melendez, Clerk—And Carlos Ycaza Arosemena—Carlos Icaza Arosemena—Melendez, Clerk—Civil Court of Panama, the fifteenth of May, one thousand
765 eight hundred and eighty-four. Whereas, considering the foregoing memorial, and it appearing that the parties have taken no appeal whatsoever from the Orders of the sixth of November of the past year, and of the third and seventh of the present month, the Court, administering the law, declares them final, and orders that the attorney for the plaintiff cancel in its entirety deed number two hundred and twelve, exe-

cuted the twenty-fifth of August of the year one thousand eight hundred and seventy-six, before Notary Number One, by which the execution was based, which execution, by virtue of the compromise effected, the obligations connected therewith are canceled. Let notice issue—Aleman—Melendez, Clerk—I notified Carlos Ycaza Arosemena—Ycaza Arosemena—Melendez, Clerk—And Jose Maria Vives Leon—Vives Leon—Melendez, Clerk—The foregoing is a copy—Panama, the nineteenth of May, one thousand eight hundred and eighty-four—Lino Melendez, Clerk. The fee for this year having been paid in advance, this instrument is registered in book two, volume two, kept in this office, at folios fifty-four to fifty-seven. Panama, the twentieth of May, one thousand eight hundred and eighty-four—The General Administrator of the Treasury of the State. (There appears a seal).—Juan Pablo Arias." The matter inserted agrees with the memorandum and the copy accompanying same. Wherefore, the vendor declares: First—That he has not sold, transferred nor pledged the said property to any other person. Second—That the property, as appears by the record, is free of all alien, annuity tax, and mortgage. Third—That he has sold the property according to the boundaries set forth, with the number of head of live stock indicated, and the other appurtenances appertaining to same, for the sum of two thousand pesos, which he has received in cash to his entire satisfaction. Fourth—That the fair price of the property in question and its real value is the said two thousand pesos, which was the amount he paid for same at public sale, and that if it is worth more, or can be worth more, he donates to the vendee every-
766 thing over and above that amount. Fifth—That the vendee being already in the possession and dominion of the aforesaid property, the copy of this

instrument to be given him by the Notary for the purpose will be sufficient title for him for holding the possession and dominion, and Sixth—That, the property not having gone out of the possession of the vendee during the progress of the suit in connection with same, it is not subject to the warranty of the sale. The vendee, on his part, stated: That he accepts the sale under the terms made to him. This document having been read to the interested parties they stated that they approved the same, and they sign, all in the presence of the instrumental witnesses, Julio Lecaudey and Amadeo Pitoin, residents, of lawful age, and who are not disqualified by law, and who likewise sign along with me, to which I certify. The makers hereof were advised of their obligation, in order that this deed may have legal value, to cause to be entered in the respective registry office, which is the office of the General Administration of the Treasury, within the twenty days following the date thereof, the first copy taken of same. J. Saintbois—Jose Zayas Batista—Julio Lecaudey—Am. Petoin—Jose B. Martinez, Notary Public Number One. The General Administrator of the Treasury certifies: That at folio one hundred and forty-six of the registry fee collection book, under the number six hundred and sixty-four, there appears the following entry—"On the fourteenth of November, one thousand eight hundred and eighty-four, Jose Brijido Martinez paid twelve pesos as the registry fee of a deed to be executed by Juan Saintbois, perfecting the sale which he has made to Jose Sayas Batista, for the sum of two thousand pesos in cash, of the property called "Mata Redonda"—Juan Pablo Arias—Jose B. Martinez. (There appears a seal of the Administration office.)—Juan Pablo Arias.

The foregoing agrees with the original thereof and the certificate attached thereto on file in the protocol of con-

tracts and public instruments handled by me during the present year, from where I have taken this first copy which I issue on seven sheets of paper of the
767 proper seal at the request of Jose Sayas Batista, in Panama, November 22, 1884.

JOSE B. MARTINEZ,
Notary Public No. 1. (Seal)

Fees:

Original—Art. 2732 of the Civil Code, Par 1....	$2.80
Copy No. 1—Par 3	3.60
Total	$6.40

MARTINEZ.

The registry fee of this deed having been paid in advance, the same is registered at folios 351 to 360 of book No. 1, 4th vol., General Administration of the Treasury—Panama, Nov. 26, 1884.

JUAN PABLO ARIAS. (Seal.)

EXHIBIT "Q."

Jose Zayas Batista Sells to Jose Gabriel Duque.

Number seventy-nine—In the City of Panama, Capital of the Province and of the Department, both of the same name, in the Republic of Colombia, on the thirty-first day of the month of March of the year, one thousand eight hundred and eighty-seven, before me, Jose Brijido Martinez, Notary Public Number One of said Province, there appeared Jose Sayas Batista, a resident of this city, of lawful age, known to me, and stated: That he gives in actual sale and perpetual transfer to Jose Gabriel Duque, also a resident and merchant of this city,

of lawful age, to-wit: The half of the rural property belonging to him which is known under the name of "Mata Redonda," and which is situate a short distance from this city; and as, according to the principle established in the first paragraph of article one
768 thousand nine hundred and one of the Civil Code of this Department, the sale of real estate is not considered perfect in the eyes of the law until the contract is drawn up in a public deed, duly registered, in order that the undersigned Notary may proceed to draw up one in the corresponding place of the protocol, by means of which the transfer may be perfected, he exhibits a memorandum for the purpose, following its insertion, of serving as a basis therefor. In compliance with the duty imposed on notaries by article twenty-five of act eleven of the Compilation of various laws, I read to the makers articles twenty and twenty-two of the said act, and with knowledge thereof the vendor stated that in the memorandum presented by him the requirement of law as contained in the second of the articles read has been fulfilled insofar as possible. The undersigned Notary hereby enters of record that, as required by law, the corresponding registry fee for documents of this class, has been paid in advance, as is shown by the certificate issued by the proper fiscal employe in regard to said payment, and authentic voucher which, in accordance with the provision of the last part of article two thousand seven hundred and six of the Civil Code, is attached hereto in order that it may be inserted in the copies taken of this instrument. The memorandum herein above referred to is hereunder inserted, and the same reads verbatim as follows: "Mr. Notary Number One of the Province of Panama, Present—Please draw up in your protocol of the present year a deed of purchase/sale in which there be shown that I, Jose Reyes

Batista, of lawful age, and a resident of this city, sell to Jose Gabriel Duque, of lawful age, and a resident of this city, the half of the rural property "Mata Redonda," comprised within the Rejiduria of Calidonia of this Province. The boundaries are: From Pena hueca of this name "Mata Redonda," a straight line to the hill of "Algarrobo" and thence continuing to the hill of "Vidrio," and thence to the hill "Gordo," circling around to the headwaters of the river "Cardenas," down stream, to the junctions (or where it empties), of the
769 stream "Palangana," and from this stream, upstream, to the stream "Platanar" (Platano), thence this stream, upstream, to its headwaters or source, and thence, a straight line, to the "Pena hueca" or "Mata Redonda." It is bounded on the north by the lands of "Lucha Franco" belonging to the heirs of Pantaleon de la Guardia; on the south by the lands of the property of "San Jose" belonging to the heirs of Jose Garcia de Paredes; and on the west by the lands of Guanabano belonging to the heirs of Manuel Tallaferro. (Desde la Pena hueca de este nombre "Mata Redonda" linea recta al cerro del "Algarrobo," y seguidamente al cerro del "Vidrio" y del alli al cerro "Gordo" Tolteando a las cabeceras del rio "Cardenas" aguas abajo hasta las juntas (o donde desagua); de la quabrada "Palangana," y de esta aguas arriba hasta la quebrada del "Platanar" (Platano), en seguida esta aguas arriba hasta su cabecera y de alli linea recta a la "Pena hueca." Esta limitada al Norte, con los terrenos de "Lucha Franco" pertenecientes a los herederos del senor Pantaleon de la Guardia; al Sur con los terrenos de la Hacienda "San Jose" perteneciente al senor Doctor Carlos Ycaza Arosemena; al Esto, con los terrenos denominados "Lo de Caceres" pertenecientes a los herederos de Don Jose Garcia de Parddes; y por el Oeste, con los terrenos del

Guanabano, que pertenecen a los herederos del senor Manuel Tallaferro). The animals thereon consist of fifty head of cattle and horses. This property I acquired by purchase from Juan Saintbois, according to public deed number two hundred and two of the ninth of November, one thousand eight hundred and eighty-four, executed before you. I make this sale for the sum of two thousand five hundred pesos, which I have received from said gentlemen to my entire satisfaction, and in accordance with partnership contract made between us, the vendee and me, bearing date the twenty-fourth of March, one thousand eight hundred and eighty-seven. You will Mr. Notary please add to this deed all the clauses necessary to make it valid. Panama, the
770 twenty-fourth of March, one thousand eight hundred and eighty-seven. Jose Sayas Batista." The matter inserted agrees with the memorandum exhibited. Wherefore, the vendor declares: First—That he has not sold, transferred nor pledged to any other person the half of the said property. Second—That the aforesaid property in general is free of all lien, annuity tax, and mortgage. Third—That he has sold said part for the sum of two thousand five hundred pesos, which sum he has already received from the vendee to his satisfaction. Fourth—That the fair price of the part he sells and its real value is the said two thousand five hundred pesos, the selling price, and that if it is worth more he donates to the vendee everything over and above that amount. Fifth—That as the property remains in the possession of the vendor for the purpose of the care and administration thereof by virtue of the partnership formed between the vendor and the vendee, the latter remains an undivided owner of the said property. And Sixth—That in all cases he will warrant and defend the half of the aforesaid property

which he has sold. The vendee on his part stated: That he accepts the sale under the terms made to him. And this instrument having been read to the interested parties they stated that they approved the same, and sign, all in the presence of the instrumental witnesses, Guillermo Campbell and Luis Setimo Bethancourt, residents, of lawful age, and who are not disqualified by law, and who likewise sign along with me, to which I certify. The makers are advised of their obligation, to the end that this deed may have legal value, to cause to be registered in the respective registry office the first copy taken of same within the twenty days following the date thereof. Jose Zayas Bastista—J. Gabriel Duque—Wm. Campbell. L. S. Bethancourt—Jose B. Martinez, Notary Public Number One—The General Administrator of the Treasury of the National Department of Panama certifies: That at folio ninety-three of the collection book of registry entry: On the thirtieth of March, one thousand eight hundred and eighty-seven, Jose Brigido
771 Martinez paid fifteen pesos as the registry fee of a deed to be executed by Jose Zayas Batista, perfecting the sale he has made to Jose Gabriel Duque of the half of his cattle ranch called "Mata Redonda" for the sum of two thousand five hundred pesos cash. J. H. Diez. Jose B. Martinez. (There appears a seal). J. H. Diez.

The foregoing agrees with the original thereof and the certificate attached thereto on file in the protocol of contracts and public instruments handled by me during the present year, from where I have taken this first copy which I issue on four sheets of paper of the corresponding class at the request of Jose Gabriel Duque, in Panama, April 2, 1887.

JOSE B. MARTINEZ,
Notary Public No. 1. (Seal.)

Fees:—Decree No. 107 of 1886:

Original, 1st paragraph	$2.80
Copy No. 1, 3rd paragraph	3.00
Total	$5.80

MARTINEZ.

The registry fee of this deed having been paid in advance it is registered at folios 115 to 120 of registry book No. 1, Vol. 2—General Administration of the Treasury of the National Department—Panama, April 22, 1887.

J. A. DIEZ. (Seal.)

Fees, according to decree No. 181 of Oct. 1, 1886.
For four sheets $3.20.

DIEZ.

772 EXHIBIT "R."

Jose Zayas Batista Sells to J. G. Duque the Remaining Half of the "Mata Redonda" Property.

Number two hundred and thirty-five: in the City of Panama, Capital District of the Province and of the National Department of Panama in the Republic of Colombia, on the ninth day of the month of July of the year one thousand eight hundred and eighty-eight, before me, Manuel Azcarate, Notary Public Number Two of the Province of Panama, at present discharging the duties of the office, and the witnesses hereinafter mentioned, there appeared Jose Zayas Batista, a resident of this city, of lawful age, known to me, and stated: That he has given in actual sale and perpetual transfer to

Jose Gabriel Duque the remaining half of the "Mata Redonda" rural property, comprised within the Rejiduria of Calidonia of this Province, belonging to the vendor; and that for greater clearness, and inasmuch as a title of conveyance of real estate does not transfer except by public deed duly registered, he had drawn up the corresponding memorandum to serve as a basis for the deed he orders entered. As documents of this class are subject to the payment of a registry fee, the corresponding fee has been paid in advance for the purpose of executing this instrument, as appears by the certificate of the General Administrator of the Treasury of the National Department, which is attached hereto in order that it may be inserted in the copy or copies issued, and have its legal effect. The memorandum in question reads verbatim as follows: Mr. Notary Number Two of the Circuit of Panama—Please draw up in your protocol of contracts and public instruments of the current year a deed of purchase/sale in which there be shown that I, Jose Zayas Batista, of lawful age, widower, a resident of this city, and with the free administration of my property, give in actual sale and perpetual transfer to Jose Gabriel Duque, of lawful age, and a resident of this city, the remaining half of the "Mata Redonda" rural property, comprised within the Rejiduria of California of this Province. The boundaries are: From the "Pena Hueca" of this name "Mata Redonda," a straight line to the "Hill of the Algarrobo," and thence continuing to the "Hill of Vidrio," and thence to the "Hill Gordo," circling around to the headwaters of the river
773 "Cardenas," down stream, to the junctions (or where it empties), of the stream "Palangana," and from this stream, upstream, to the stream "Platanar" (Platano), thence this stream, upstream, to its source, and thence, a straight line to the "Pena hueca."

It is bounded on the north by the lands of "Lucha Franco" belonging to the heirs of Pantaleon de la Guardia; on the south by the lands of the "San Jose" property belonging to Carlos Icaza Arosemena; on the east by the lands called "Lo de Caceres," belonging to the heirs of Jose Garcia de Paredes; and on the west by the lands of the "Guanabano" belonging to Madam Juana Herrera. (Desde la "Pena hueca" de este nombre "Mata Redonda" liena recta el "Cerro del Algarrobo," y seguidamente al "Cerre del Vidrio," y de alli al "Cerro 'Gordo'," volteando a las Cabeceras del rio "Cardenas" aguas abajo, hasta las juntas (o donde desagua) de la quebrada "Palangana," y de esta, aguas arriba hasta la "quebrada del Platanar," (Platano) enseguida esta, aguas arriba, hasta su cabecera, y de alli linea recta a la "Pena hueca"—Esta limitada al Norte, con los terrenos de "Lucha Franco" pertenecientes a los herederos del senor Pantaleon de la Guardia; al Sur, con los terrenos de la Hacienda "San Jose," perteneciente al senor Doctor Don Carlos Icaza Arosemena; al Este, con los terrenos denominados "Lo de Caceres," pertenecientes a los herederos de Don Jose Garcia de Paredes, y por el Ceste, con los terrenos del "Guanabano," que pertenecen a la senora Juana Herrera.) The animals thereon consist of fifty head of cattle and horses. This property I acquired by purchase from Juan Saintbois, according to public deed number two hundred and ninety-two bearing date the nineteenth (19) of November, one thousand eight hundred and eighty-four, executed before the late Notary Number One, Jose Brijido Martinez, deceased, having already sold to said Jose Gabriel Duque the other half, as appears by public deed number seventy-nine bearing date the thirty-first of March, one thousand eight hundred and eighty-seven, before the same Notary Number One, Jose Brijido Martinez, deceased.

774 The sale, Mr. Notary, I make for the sum of two thousand pesos ($2,000.00) lawful money, which I have received in cash from the vendee to my entire satisfaction. In making this sale the partnership contract between Jose Gabriel Duque and me, bearing date the twenty-fourth of March, one thousand eight hundred and eighty-seven, is null and void, as the entire purchase of my half closes my interest in said property, he remaining as the sole owner of the entire property. I hereby enter of record that my half, which I sell him by means of this deed, is free of all lien, annuity tax and mortgage. You will, Mr. Notary, please add to this deed all the necessary clauses to make it legal and valid. Panama, the ninth of July, one thousand eight hundred and eighty-eight. Jose Zayas Batista." The vendor declares: First—That he has not heretofore sold, transferred nor pledged the half of the property which he now sells. Second—That it is free of all lien, annuity tax and mortgage. Third—That the said half is sold by him, as described in the inserted memorandum, for the sum of two thousand pesos, which he has received from the vendee to his entire satisfaction. Fourth—That the fair price and real value of the half of the property sold is the said two thousand pesos. Fifth—That from this date he delivers to the vendee the half of the property which he has sold to him, together with the resulting interests. And, Sixth—That he will forever warrant and defend the half of the property which he has sold. The vendee, Jose Gabriel Duque, resident of this city, of lawful age, and also known to me, being present, stated: That he accepts the sale made to him; and that, on his part, he will comply with the obligations imposed upon him by this contract. This instrument having been read to the interested parties they

stated that they approved the same, and sign, all in the presence of the instrumental witness, Carlos Berguido and Aurelio Quintin Gallol, residents, of lawful age, who are not disqualified by law, and before whom I notified the parties of the obligation to take,
775 within the period of twenty days computed from the date hereof, the first copy of this deed to the registry office of public and private documents of the Province of Panama in order that it may be registered, the fee being paid, and who sign along with me, to which I certify—Jose Zayas Batista—J. Gabriel Duque—Carlos Berguido—Aurelio Q. Gallol—Manuel Azcarate, Notary Public Number Two. The General Administrator of the Treasury of the Department of Panama hereby enters of record that in the collection book of registry fees and under the number five hundred and thirty-two there appears an entry reading as follows: The ninth of July, one thousand eight hundred and eighty-eight—On this date Manuel Azcarate has paid twelve pesos as the registry fee of a public deed to be executed by Jose Zayas Batista, giving in actual sale and perpetual transfer to Jose Gabriel Duque the remaining half of the "Mata Redonda" rural property, comprised within the Regiduria of Calidonia, for the sum of two thousand pesos. Ricardo Arango. There appears a seal.

The foregoing is a copy of the original and of the certificate attached thereto on file in the protocol of contracts and public instruments handled by me during the present year, and from where I have taken and compared this first copy for Jose Gabriel Duque, and which I issue on five sheets of paper of the proper seal, in Panama, July 17, 1888.

MANUEL AZCARATE,
Notary Public No. 2. (Seal).

Fees: Decree #158/86—Par. 3, Art. 1, $3.50.
Registry of public and private instruments of the Province—Panama, July 19, 1888—The registry fee of this deed having been paid in advance it is registered at folios 196 to 197 of the registry book, No. 1, Vol. 1.

CARLOS YCAZA,
Registrar.

Fees: Art. 2671 of the Civil Code, $0.40.
YCAZA.

776 EXHIBIT "8".

Jose G. Dugue Sells to Manuel Espinosa B. the Half of the "Mata Redonda" Property.

Number one hundred and seventy-nine—In the City of Panama, Capital of the Province and of the Department, both of the same name, in the Republic of Colombia, on the eighth day of the month of July of the year one thousand eight hundred and ninety, before me, Manuel Azcarate, Notary Public Number Two of the Circuit of Panama, at present discharging the duties of the office, and the witnesses hereinafter mentioned, personally appeared Jose Gabriel Duque, of lawful age, resident of this city, known to me, and stated: That he has given in actual sale and perpetual transfer to Manuel Espinosa Batista, also of lawful age, and a resident of this place, the half of the "Mata Redonda" rural property for the sum of two thousand pesos ($2,000.00) of eight hundred and thirty-five thousandths (0'835). And that the matter may be clearer, and inasmuch as the title conveying real estate does not effect a transfer, according to law, except by public deed duly registered, he presented

a memorandum to serve as a basis to the deed which he orders drawn up. As documents of this class are subject to the payment of the registry fee, the corresponding fee for the execution of this instrument has been paid advance, as appears by the certificate of the General Administrator of the Treasury of the Department, which is attached hereto for the purpose of insertion in the copy or copies taken, and have legal effect. The memorandum in question reads verbatim as follows: Mr. Notary Public Number Two of the Circuit of Panama—Please draw up in your protocol of contracts and public instruments under your charge during the current year a deed in which there be shown that I, Jose Gabriel Duque, of lawful age, resident of this city, and having the free administration of my property, give in actual sale and perpetual transfer to Manuel Espinosa Batista, of lawful age and a resident of this city, the
777 half of the "Mata Redonda" rural property, comprised with the Regiduria of Calidonia of this Province. The limits of said property are: "From the "Pena Hueca" of this name "Mata Redonda", a straight line to the "Hill of the Algarrobo", and thence continuing to the "Hill of Vidrio", and thence to the "Hill Gordo", circling around the headwaters of the river "Cardenas", down stream, to the junctions (or where it empties) of the stream "Palangana", and from this stream, upstream, to stream "Platanar" (Platano), thence this stream, upstream, to its source, and thence, a straight line to the "Pena Hueca". The said property is bounded as follows: On the north by the lands of "Lucha Franco", belonging to the heirs of Pantaleon de la Guardia; on the south by the lands of the "San Jose" property, belonging to Carlos Ycaza Arosemena; on the east by the lands called "Lo de Caceres", belonging to the heirs of Jose Garcia de Paredes; and on the west

by the lands of "Guanabano", belonging to Mrs. Filomena Carrillo de Carbone, formerly the property of Madam Juana Herrera. (Los limites de dicha Hacienda son: Desde la "Pena Hueca" de este nombre "Mata Redonda", linea recta al "Cerro del Algarrobo" y seguidamente al "Cerro del Vidrio", y de alli al "Cerro Gordo" volteando a las cabeceras del rio "Cardenas" aguas abajo hasta las juntas (o donde desagua) de la quebrada "Palangana" y de esta; aguas arriba hasta la quebrada del "Platanar" (Platano) en seguida esta aguas arriba hasta su cabecera, y de alli linea recta a la "Pena Hueca."—Esta limitada la citada Hacienda asi;—Por el Norte, con terreons de "Lucha Franco" pertenecientes a los herederos del senor Pantaleon de la Guardia; al Sur, con los terrenos de la hacienda "San Jose", pertenecientest al senor Doctor Carlos Ycaza Arosemena; al Este, con los terrenos denominados "Lo de Caceres", pertenecientes a los herederos de Don Jose Garcia de Paredes; y al Oeste; con los terrenos del "Guanabano", pertenecientes a la Senora Filomena Carrillo de Carbone, anteriormente a la Senora Juana Herrera). The
778 animals thereon consist of fifty head of cattle and horses more or less. This property I acquired by purchase which I made of the last half from Jose Sayas Batista, as appears from public deed number two hundred and thirty-five bearing date the ninth of July, one thousand eight hundred and eighty-eight, before you, I having already purchased from the same gentlemen the first half, as appears by public deed number seventy-nine bearing date the thirty-first of March one thousand eight hundred and eighty-seven, before Notary Public Number One, Joe Brijido Martinez. (May he rest in peace). I hereby enter of record that said property is free of all lien, tax and mortgage, and I also enter of record that I have in my possession the perfect-

ing title relative to taxes number sixty-one (61) for forty pesos ($40.00) bearing date the nineteenth of February, one thousand eight hundred and eighty-nine. I make the sale of the sum of two thousand pesos ($2,000.00) of eight hundred and thirty-five thousand (O'835), which I have received from the vendee in cash to my entire satisfaction. You will, Mr. Notary, please add to this bill of sale of the half of the "Mata Redonda" property all the necessary clauses to make it legal and valid. Panama, the eighth of July, one thousand eight hundred and ninety.—J. Gabriel Duque. The vendor declares: First—That he has not heretofore sold, transferred nor pledged the half of the said "Mata Redonda" property, which he sells by this deed. Second—That it is free of all lien, tax and mortgage. Third—That he sells it for the sum of two thousand pesos, as it is described in the memorandum inserted, together with the animals thereon, and all the appurtenances appertaining thereto, which two thousand pesos he acknowledges having received from the vendee in cash and to his entire satisfaction. Fourth—That the fair price and real value of the half of the property sold, and all the appurtenances appertaining thereto, is the price already mentioned. Fifth—That from this date he delivers to the vendee the half of the property sold, and all the appurtenances ap-
779 pertaining thereto, together with the resulting interests. And Sixth—That he will forever warrant and defend the property sold. Manuel Espinosa Batista, of lawful age, merchant of this place, resident of this city, and also known to me, being present, stated: That he accepts the sale made to him by Jose Gabriel Duque, and that, on his part, he will comply with the obligations imposed upon him by this contract. This deed having been read to the interested parties, they stated that they approved it, the same being in accord

with the contract made by them, and they sign it in the presence of the instrumental witnesses, Guillermo Patterson and Asael Paredes, residents, of lawful age, of good reputation, and who are not disqualified by law to serve as witnesses, before whom I advised the interested parties of their obligation to have the first copy registered taken of this deed in the registry office of public and private documents of the Province of Panama, in order that it may be registered in view of the fee required by law being paid; and who likewise sign along with me, to all of which I certify—J Gabriel Duque—Manl. Espinosa B.—G. Patterson—A. Paredes—Manuel Azcarate, Notary Public Number Two—Republic of Colombia—Department of Panama—General Administration of the Treasury—Second Volume—I hereby certify: That at folio twenty-one of the collection book of registry fees, and under the number one thousand one hundred and eighty-one, there appears the following entry: Panama, the eighty of July, one thousand eight hundred and ninety—"On this date Manuel Azcarate has paid twelve pesos as the registry fee of a public deed to be executed by Jose Gabriel Duque, giving in sale to Manuel Espinosa B. the half of the property called "Mata Redonda", comprised within the Rejiduria of Calidonia, for the sum of two thousand pesos ($2,000.00)—Ricardo Arango—(There appears a seal of the General Administration of the Treasury.)

780 The foregoing agreed with the original thereof and the certificate attached thereto, on file in the protocol of contracts and public instruments handled by me during the current year, and from where I have taken, compared and corrected this first copy for Manuel Espinosa Batista, and which I issue him on six sheets of paper of the corresponding seal, in Panama,

the tenth day of the month of July of the year one thousand eight hundred and ninety.

MANUEL AZCARATE,
(Seal) Notary Public No. 2.

Fees: Decree No. 158/86—Art. 1, Par. 3, $4.00.

Registry of public and private instruments of the province—Panama, the eleventh of July, one thousand eight hundred and ninety. The foregoing deed is registered at folios one hundred and thirty-seven to one hundred and thirty-nine of registry book number one, volume one, under the number 90.

JOSE ANT. ROMERO,
(Seal) Registrar.

Fees:—Art. 2671 of the C. C. N. Forty cents.
ROMERO.

EXHIBIT "T".

Number twenty-six—In the City of Panama, capital of the province and of the Department, both of the same name, in the Republic of Colombia, on the third day of the month of February, one thousand eight hundred and ninety-one, before me, Manuel Azcarate, Notary Public Number Two of the Circuit of Panama, at present discharging the duties of the office, and the witnesses hereinafter mentioned, personally appeared Jose Gabriel Duque and Emanuel Espinosa Batista, both residents of this city, of lawful age; merchants of this place, known to me, and stated: That they have given in actual sale and perpetual transfer to Mr. Guillermo Patterson a farm comprised within the ward of Calidonia and

called "Hacienda de Mata Redonda," and that, in order that same may be clearer, and inasmuch as a conveyance of real estate is only made by public deed duly registered, they have drawn up the corresponding memorandum to serve as a basis of the deed which they order entered. As documents of this class are subject to the payment of a registry fee, the corresponding fee for the execution of this instrument has been paid in advance as is shown by the certificate of the General Administrator of the Treasury of the Department, which certificate is attached hereto for the purpose of insertion in the copy or copies taken, and exercise its legal effects. The memorandum in question copies verbatim reads as follows: "Mr. Notary Number Two of the Circuit of Panama: Please draw up in your Protocol of contracts and public instruments under your charge a deed in which there be shown: That we, Jose Gabriel Duque and Manuel Espinosa Batista, give in actual sale and perpetual transfer to Mr. Guillermo Patterson a farm comprised within the ward of Calidonia and called "Hacienda de Mata Redonda." The limits of said farm roundabout are the following: From the "Pena Hueca" of this name "Mata Redonda," a straight line to the "Cerro del Vidrio;" and thence to the "Cerro-gordo," running around to the headwaters of the river "Cardenas"; down stream to the junction (or where it empties) of the stream "Palangana;" and from this stream, upstream, to the stream "Platanar" (Platano); thence this stream, upstream, to its headwaters or sources; and thence, a straight line, to the "Pena Hueca." (Desde la "Pena Hueca" de este nombre "Mata Redonda," linea recta al "Cerro del Vidrio" y de alli al "Cerro-gordo," volteando a las cabeceras del rio "Cardenas;" aguas abajo hasta las juntas (o donde desague) de la quebrada "Palangana;" y de esta, aguas-arriba

hasta la Quebrada del "Platanar" (Pltano); en seguida esta, aguas arriba hasta su cabecera; y de alli lina recta a la "Pena Hueca.") The boundaries of said
782 farm are: On the north the lands of "Lucha Franco," belonging to the heirs of Pantaleon de la Guardia; on the south by the lands of the farm "San Jose" belonging to Dr. Carlos Ycaza Arosemena; on the east by the lands called "Lo de Caceres" belonging to the heirs of Jose Garcia de Paredes; and on the west by the lands of the "Guanabano" belonging to Mrs. Filomena Carrilo de Carbone. (Por el Norte, con terrenos de "Lucha Franco," pertenecientes a los herederos del Senor Pantaleon de la Guardia; al Sur, con los terrenos de la Hacienda "San Jose," pertenecientes al Senor Doctor Carlos Icaza Arosemena; al Este, con los terrenos denominados "Lo de Caceres," pertenecientes a los herederos de Don Jose Garcia de Paredes; y al Oeste, con los terrenos del "Guanabano," pertenecientes a la Senor Filomena Carrilo de Carbone.) The animals on said farm, and which by this instrument are included in the sale, consist of thirty (30) head of cattle and two horses or mules; and, besides, all the pastures, crops, houses, and all that is located thereon, and which the vendee has already received. This property the vendor Jose Gabriel Duque obtained by purpose made by him of the last half from Jose Sayas Batista, as appears by public deed number two hundred and thirty-five bearing date of the ninth of July, one thousand eight hundred and eighty-eight, before you, having prior thereto purchased the first half, as appears by public deed number seventy-nine bearing date the thirty-first of March, one thousand eight hundred and eighty-seven, before Notary Public Number One, Jose Brijido Martinez, (May he rest in peace). The vendor, Manuel Espinosa Batista, obtained same as appears by public deed number one

hundred and seventy-nine bearing date the eighty of July, one thousand eight hundred and ninety, before you. We hereby enter of record that said farm is free of all lien, annuity tax, and mortgage; and we make delivery to the vendee, Mr. Patterson, of all the documents bearing upon this property, including the complementary title relative to the annuity tax, number sixty-
783 one, for forty pesos, bearing date the nineteenth of February, one thousand eight hundred and eighty-nine. We make the sale for the sum of Four Thousand Pesos ($4,000.00), legal currency of eight hundred and thirty-five thousandths (0,835) fine, which sum Mr. Patterson will begin to pay the first day of January, one thousand eight hundred and ninety-three, and from that date henceforth it shall begin to draw interest at the rate of a half per cent per month, or, in other words, at the rate of six per cent per year. That is to say, that during the years one thousand eight hundred and ninety-one and one thousand eight hundred and ninety-two this sum of four thousand pesos shall not draw any interest whatever, and the said farm "Mata Redonda," its animals, pastures, crops, houses, etc., are ipso facto encumbered and mortgaged until such time as the indebtedness be fully satisfied; and at the time of cancellation of the indebtedness both vendors, Jose Gabriel Duque and Manuel Espinosa Batista shall effect cancellation of said mortgage with which the farm is encumbered by means of a public deed. You will please, Mr. Notary, add to this deed all the necessary clauses to make it legal and binding. Panama, the thirty-first of January, one thousand eight hundred and ninety-one. J. Gabriel Duque—Man'l Espinosa B. The vendors declare: First—That the farm which they now sell they have not heretofore sold, transferred nor pledged. Second—That it is free of all lien, annuity

tax and mortgage. Third—That they sell the same, as it is described in the memorandum inserted, for the sum of four thousand pesos, to be received by them from the vendee in the manner already above described. Fourth—That the just price and true value of the aforesaid property is the said sum of four thousand pesos. Fifth—That from this date they deliver to the vendee the said property together with the consequent rights of action at law; and Sixth—That in all cases they will warrant and defend the title. Mr. Guillermo Patterson, a resident of this city, of lawful age, and also known to me, being present, he stated: That he ac-
784 cepts the sale made to him; and that, on his part, he will comply with the obligations imposed upon him by this contract, paying, consequently, within the time stipulated, the four thousand pesos, the selling price, and mortgaging the said farm purchased by him as guarantee of the fulfillment of the obligation contracted by him, with all the effects set forth in the law. And this instrument having been read to the makers they stated that they approved the same, and sign, all in the presence of the instrumental witnesses, Jose Peredes and Artuo Sanchez Gaitan, residents of lawful age, and who are not disqualified by law to serve as such, before whom I notified them of their obligation to take, within the period of sixty days, computed from the day following this date, the first copy taken of this deed to the Registry Office of public and private documents of the province of Panama, in order that it may be registered, the fee required by law having been paid; and who likewise sign along with me, to all of which I certify.—J. Gabriel Duque—Man'l Espinosa B. —G. Patterson—Jose Paredes—Artuo Sanchez G.—Manuel Azcarte, Notary Public Number Two."—Republic of Colombia—Department of Panama—General Administra-

tion of the Treasury—Third Volume—I hereby certify: That at folio eighteen of the collection book of registry fees and under the number one thousand six hundred and eighteen there appears the following entry: Panama, the third of February, one thousand eight hundred and ninety-one. On this date Manuel Azcarte has paid the sum of twenty-four pesos ($24.00) as the registry fee of a public deed to be executed by Jose Gabriel Duque and Manuel Espinosa Batista, giving in actual and effective sale to Mr. Guillermo Patterson, a farm comprised within the land of Calidornia called "Hacienda de Mata Redonda," for the sum of four thousand pesos, ($4,000.00) payable within a stipulated time, the property being mortgaged until the cancellation of the indebtedness. Owing to temporary absence of the Administrator, The Book-keeper/Cashier, Julio A de Castro.

785 The foregoing agrees with the original thereof and the certificate attached to same which are on file in the Registry of contracts and public instruments which come under this office, in my charge, during the present year, from where I have taken, compared and corrected this first copy which I issue on six sheets of paper of the corresponding seal for the vendee, Mr. Guillermo Patterson, in Panama, the fifty day of the month of February of the year one thousand eight hundred and ninety-one.

MANUEL AZCARATE,
(Seal) Notary Public No. 2.

Fees: Decree No. 158/86 Par 3, Art. 1 Four pesos, ($4.00).

Registry of Public and Private Instruments of the Province. Panama, the sixth of February, one thou-

sand eight hundred and ninety-one. The foregoing deed is registered at pages eighteen to twenty-one, Registry Book, Number One, First Volume, of this year, under the number fifteen.

JOSE ANTONIO ROMERO,
(Seal) Registrar.

Fees: Art. 2671 of the C. C. N., $0.40.

ROMERO.

Be it known that the present document has been removed from the file containing the possessory action brought by Guillermo Patterson against Luciano Castillo, as ordered in the following Court order. Court One of the Circuit of Civil Matters. Panama, the first of September, one thousand eight hundred and ninety-nine.

Let the removal requested be made with notification to all interested parties. Let notice issue—Villalaz—Lombardi, Clerk.

Panama, Oct. 1, 1899.

RICARDO (illegible)
Clerk of Court.

786 Court One of the Civil Circuit—Panama, the twenty-ninth of March, one thousand nine hundred. Let the removal of the documents requested be made with notification to the parties. Let notice issue—Villalaz—Herrera L., Clerk.

Panama, April 10, 1901.

MANUEL A. HERRERA, L.,
Clerk.

Fees: B/2.50. Received Panama, Feb. 18, 1914. (Treasury Seal).

For the General Treasury of the Republic,
By the Cashier in charge,
ALB. BOYD.

The foregoing document is inscribed in Property Register, Panama Section, Volume Nine, Folio, fifty-three, Property 241, Entry One. Fees: B/2.50.

Panama, March 16, 1914.

J. DE LA C. GRIMALDO.

EXHIBIT "U."

1891—1st Copy—J Gabriel Duque and Man'l Espinosa B. correct the boundaries roundabout of the farm or estate called "Mata Redonda" which, by deed No. 28 of February 34 of the present year they sold to Mr. Guillermo Patterson, executed in this Notarial office.

(Notarial Seal) Registry Book No. 1, Entry No. 118.

Number Fifty-eight:—In the City of Panama, Capital of the Province and of the Department, both of the same name, in the Republic of Colombia, on the second day of the month of March of the year one thousand eight hundred and ninety-one, before me, Manual Arcarate, Notary Public Number Two of the Circuit of Panama, at present in office, and the instrumental witnesses hereinafter mentioned, personally appeared Jose Gabriel Duque and Manuel Espinosa Batista,
787 both residents of this city, of lawful age, merchants of this place, known to me, and stated: That having involuntarily made a mistake in the memorandum which they filed with this Notarial office in the description of the boundaries roundabout of a farm or estate called "Mata Redonda", which, by

public deed number twenty-six of the third of February last, they sold to Mr. Guillermo Patterson through this same notarial office, they were proceeding to execute the present deed of rectification of said boundaries, and that for this purpose they were presenting a memorandum in order that it might serve as a basis for the instrument which they order drawn up. It is entered of record that the corresponding registry fee for this deed has been paid in advance as is shown by the certificate of payment issued by the proper fiscal employe, which is being attached hereto for the purpose of being inserted in each of the copies taken of this deed, and rendering same valid. The memorandum in question reads verbatim as follows: "Mr. Notary Public Number Two of the Circuit of Panama, Present—In the memorandum which we filed with you for the purpose of making the bill of sale of the property called "Bata Redonda" we involuntarily made a mistake in the description of the boundaries "roundabout" of said farm, and in order to correct this error we request of you to please insert in your protocol of the present year this explanatory deed of the one of the third of the past month of February, number twenty-six, executed in your office, in favor of Mr. Guillermo Patterson, who bought from us the farm for four thousand pesos. The boundaries of the farm are the following: "From the "Pena Hueca" of this name "Mata Redonda," a straight line to the hill of the "Albarrobo," and thence continuing to the hill of the "Vidrio", and thence to "Gordo" Hill, circling around to the headwaters of the river "Cardenas," downstream, to the junctions (or where it empties) of the stream "Palangana," and from this stream, upstream,
788 to the stream "Platanar" (Platano). Thence this stream, upstream, to its headwaters or source and thence a straight line to the "Pena

Hueca." (Desde la "Pena Hueca" de este nombre "Mata Redonda," linea recta al cerro del "Algarrobo" y seguidamente al cerro del "Vidrio" y de alli al cerro "Gordo," volteando a las cabeceras del rio "Cardenas" aguas abajo hasta las juntas (o donde desagua) de la quebrada de "Palangana," y de este aguas arriba hasta la quebrada del "Plantanar" (Platano) En seguida esta aguas arriba hasta su cabecera y de alli linea recta a la "Pena Hueca." The rest of the memorandum of the said deed number twenty-six of the third ultimo is correct. Panama, the second of March, one thousand eight hundred and ninety-one—J. Gabriel Duque—Man'l Espinosa B." Mr. Guillermo Patterson, a resident of this city, of lawful age, also known to me, being present, stated: That he accepts the rectification which Messrs. Duque and Espinosa Batista have made for him of the boundaries of the said property "Mata Redonda." This deed having been read to the interested parties they approved the same and signed it in the presence of the instrumental witnesses, Artuo Sanchez Gaitan and Jose Luis Paniza Arosemena, residents of this city, of lawful age, and qualified according to law to witness this act, before whom I caused the interested parties to be notified of their obligation to cause to be registered the first copy taken of this instrument in the Registry Office of contracts and public and private instruments of the Circuit of Panama within the sixty days which begin to run from the day following the day of the execution of the present deed,—all before me, to which I certify.—J. Gabriel Duque—Man'l Espinosa B.—G. Patterson—Artuo Sanchez G. J. L. Paniza A. Manuel Azcarate, Notary Public Number Two. Republic of Colombia—Department of Panama—General Administration of the Treasury. I hereby certify. That at folio forty-four of the collection book of Registry Fees and under the

number one thousand six hundred and forty-nine there appears the following entry: Panama, the third
789 of March, one thousand eight hundred and ninety-one. On this date Manuel Azcarate has paid the sum of one peso as the registry fee of a deed to be executed by Jose Gabriel Duque and Manuel Espinosa Batista, correcting an error in the description of the boundaries "roundabout" of the property "Mata Redonda" which they sold to Mr. Guillermo Patterson for four thousand pesos ($4,000.00), according to deed number twenty-six of the third of February last past at notarial office number two of this circuit. Ricardo Arango. (There appears a seal of the General Administration of the Treasury of the Department).

The foregoing agrees with the original thereof and the certificate attached thereto on file in the registry of contracts and public instruments which are handled through the notarial office under my charge during the current year, from where I have taken, compared and corrected this first copy for Mr. Guillermo Patterson, and which I issue him on four sheets of paper of the respective paper in Panama the fourth of March, one thousand eight hundred and ninety-one.

MANUEL AZCARATE,
Notary Public No. 2. (Seal)

Fees: Decree No. 158/86—No. 3, Art. 1, $3.00, Three pesos.

Registry of public and private instruments of the Province. Panama, the seventh of March, one thousand eight hundred and ninety-one. The foregoing deed is registered at folios forty-two to forty-three of the reg-

istry book number one, volume one, under the number twenty-nine.

JOSE ANTONIO ROMERO,
Registrar. (Seal)

Fees: Art. 2671 of the C. C. N.
Forty cents ($0.40).

ROMERO.

790 Be it known that the present document has been removed from the file containing the possessory action brought by Guillermo Patterson against Luciano Castillo in accordance with the following order:

"Court One of the Civil Circuit—Panama, Sept. 1, 1899. Let the removal requested be made with notification thereof to the interested parties. Let notice issue—Villalaz—Lombardi, Clerk.

Panama, Oct. 1, 1899.

RICARDO TORBIA,
Clerk of Court, (Seal).

Court One of the Civil Circuit. Panama, March 29, 1901. With knowledge of the parties let the removal be made of the documents requested. Let notice issue.—Villalaz—Herrera L., Clerk.

Panama, April 10, 1901.

MANUEL A. HERRERA L.,
Clerk.

The foregoing document is described in the Property Registry, Panama Section, Volume 9—Folio 130—Property 241—Entry One—Fees—Panama, March 16, 1914—J. de la C. Grimaldo. (Seal).

EXHIBIT "V."

Be it known that I, Juan de Dios Arosemena, a native and resident of this city, stipulate by the tenor of these presents that I give in actual sale from now and for all time to Dr. Carlos Yzaca, his heirs and successors, and whoever should in any way properly represent his interests, to-wit: a piece of land belonging to me called "San Jose," which is shown more in detail in the certificate inserted and which reads verbatim as follows, there also being inserted the certificates issued by the Administrator of this Canton showing satisfaction of the registry fee covering this bill of sale, and the tenor thereof, the one following the other, is as follows,—

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Mr. Secretary. You will kindly draw up in you current registry of public deeds a bill of sale which I, Juan de Dios Arosemena, make in favor of my uncle, Dr. Carlos de Ycaza, of a piece of land belonging to me called "San Jose" which I purchased from Col. Francisco Picon, which land is about a league from this city, and the boundaries thereof are from the headwaters of the river Hondo, down stream, running along with Pan de Azucar to the highway at the point where the road going from old Panama to the town of Cruces crossed, and containing from said crossing point, downstream, it runs along the Loseria up close to the Bath at the point where a creek or ditch from the spring which comes down along a place called the "Chacarita" empties, and following said creek to its headwaters, it is bounded by Juan Dias Cabellero, in its entirety, and thence from the said headwaters a straight line is taken along a row of hill or hillocks by the most direct line up to the river Cardenas, and continuing along this river up stream, it runs along the Guanabano, up to the place where the creek Palangana, bounding with Mata Redon-

da, empties, by which creek it continues, upstream, to the place where the second creek called the Platanar creek empties, continuing along this stream to its source, and from that point continuing in a straight line to the headwaters of the said river Hondo, the starting point, which point is on the right hand side coming along the road leaving the estate of Mata Redonda to meet the highway from Portobelo to this city, which passes between the estates Mata Redonda and Lo de Caceres. (El cual territorio dista de estat ciudad como una legua y sus linderos son desde las cabeceras de rio Hondo aguas abajo confinando con "Pan de Azucar" hasta el paso real por donde crusaba el camino que iba de la antigua Panama para el pueblo de Cruces, y siguiendo de dicho paso real aquas abajo va confinando con la Loseria basta cerca del Bano en el punto en donde dasagua una quebrada o sanja del manatial que baja por
792 un sitio nombrado "Chacarita" i siguiendo dicha quebrada hasta sus cabeceras, linda con Juan Dias Caballero por toda ella, i lugeo de las referidas cabeceras se toma una linea recta por una fila de lomas o cerros en derechura hasta topar el rio Cardenas, i siguiendo for este aguas arriba confina con el Guanabano hasta el lugar en que desagua la quebrada palangana lindante con Mata Redonda por la cual siguen aguas arriba hasta el lugar en que desagua la segunda quebrada que llaman le quebrada del Platanar, siguen por toda estae hasta su orijen, y de ayi continuan lies recta hasta topar con las caveceras del referido rio hondo en donde empesamos, cuyo punto se encuentra a mano derecha viniendo por el camino que sale de Mata Redonda a encontrar el camino real de Portobelo a esta Ciudad que pasa entre Mata Redonda y Lo de Caceres). All the land comprised within the said boundaries, together with the trees, pastures, watering places thereon,

and everything pertaining thereto, I sell to my said uncle, Dr. Carlos de Ycaza, for the sum of one hundred and sixty pesos, of which sum there is recognized as a tax and redeemable contribution in favor of the municipal income of this city one hundred pesos at five per cent per year, and the remaining sixty pesos I have received in cash. And by virtue of this sale which I make I transfer to the vendee all rights of possession and ownership which I have in the said land called "San Jose", and everything comprised therein. You will kindly insert all other customary clauses for the better validity and security of this contract. Panama, the ninth of March, one thousand eight hundred and forty-six. Juan de Dias Arosemena. Nicalos Peres, administrator of collections, certifies: that at folio 34 of the charge book and of current rate there appears an entry in the section of mortgage fees and register, the tenor of which is as follows: No. 127—On the tenth of March, one thousand eight hundred and forty-six, two reales (dimes) were charged, which in current silver, Carlos de Ycaza has paid as the registry fee of a deed to be executed by Juan de Dios Arosemena for the sale which Arosemena has made to the first named of some lands called "San Jose" for the sum of one hundred and sixty pesos under the following terms,—one hundred pesos which he must recognize as a tax at five per cent in favor of the Municipal Council of this city, and sixty in cash. For this payment the corresponding certificate is given which the person in charge signed for the purpose of making same complete.—two reales. Peres—Jose Maria Laso. Collection Office—Panama, date ut supra—Nicolas Peres. The documents inserted agree with the originals, to which I refer. Therefore, understanding my rights in this case, of my free will and accord, without any coercion or

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force whatever, I give in actual sale to the aforesaid Dr. Carlos de Ycaza the land belonging to me called "San Jose", the same land that I had and purchased from Col. Francisco Picon, at the price and for the sum of one hundred and sixty pesos, in the following form: One hundred pesos as a tax and redeemable contribution at five per cent per year which is to recognize in favor of the municipal income of this city, and sixty pesos which he has delivered to me in cash and in current money, which sum is satisfactory to me and delivered by reason of same having been really and actually received, and in view of the fact that the delivery thereof and the receipt is not a present transaction I waive the exceptions and laws of the Non Numerata Pecnuia in proof and all else in the premises. As my own, as said land is, I guarantee it to be free of pledge, obligation and mortgage, and without any other charge or encumbrance except the one already mentioned. Wherefore, I sell the aforesaid land to the said Carlos Ycaza, together with all of its rights of way, watering troughs, watering places and every thing de facto and de jure corresponding to him in accordance with the boundaries which, with great clearness, are set out in this deed and the certificate inserted. And I declare that the just price and value of the said land is the said one hundred and sixty pesos aforementioned, and if it is worth more or may be worth more, the excess, whether small or large, I make a donation thereof to the vendee, good,
794 pure, perpetual and irrevocable, the kind that the law calls inter vivos, with full authorization of the law of the roual ordinance issued at the Court of Alcala de Henares, and especially the first law, title eleven, book five, of the Code, and the concluding law of the last title, seventh enactment. By virtue of which I desist, withdraw and relinquish the right of possession,

ownership and dominion which in said land I had and held, and everything, together with the good will, I cede, renounce, and transfer to the vendee in order that, as his own, which it is, by virtue of this deed which I execute in his favor as a title of his possession, he may dispose of same at his pleasure. And as to the eviction, security and warranty of this sale I bind myself in such manner that now and for all time it shall be certain and secure to him, and in connection with his possession there shall be no lawsuit, embarrassment nor opposition by any person whomsoever, and if any such there by, as soon as I have knowledge thereof I shall proceed to the defense, and I shall pursue the matter at my cost and instance until I leave the vendee in tranquil and pacific possession, and in the event that I should not be able to warrant the sale I shall return to him the sixty pesos cash of this sale, paying furthermore the damages, and loss occasioned him through the said non-warranty, by virtue of this deed, the notification thereof, and the simple oath of the party to present myself for judgment, without the necessity of any other notification or proceeding whatever although it may be required by law, as I waive the same, for the stability and firmness of this deed, I bind my person and present and future property under the authority of the jurisdiction of statute and laws in my favor, together with the generality of same in form. And Dr. Carlos de Ycaza being present for the acceptance contained in this bill of sale, and having heard and understood same, he stated: That he accepts the deed in his favor in its entirely, and that being in possession of the land called "San Jose" he acknowledges satisfaction and delivery of same, waiving the laws of fraud, deceit, and the thing not
795 seen; binding himself to recognize the one hundred pesos forming a lien on the said land in

favor of the municipal income of this city, and to pay the revenue thereof in the premises of the five per cent thereon each year of those as same becomes due without excepting or claiming any time or term whatever. In testimony whereof they thus executed and signed, Jose Maria Lasso, Juan Alvares and Pio Aveciallas, serving as witnesses. Juan de Dios Arosemena. Carlos de Ycaza. Jose de la. Stos. Correoso."

This copy agrees with the original thereof which figures in the protocol corresponding to the years one thousand eight hundred and forty-four, one thousand eight hundred and forty-five, and one thousand eight hundred and forty-six, on file in this notarial office, and I issue the copy on three sheets of the corresponding paper for Mr. Guillermo Patterson, Jr., in Panama, on the fourth day of the month of February, 1918.

FRANCISCO A. FACIO,
(Seal) Notary Public No. 1.

The undersigned, in charge of the Public Registry Office, enters of record:

That the registry books of the old Registry Offices on file in this office only date from the year 1856 to the year 1913, and that, therefore, he can give no datum whatever with regard to the registry of the former deed.

Panama, Feb. 9, 1918.

GERARDO ABRAHAMS. (Seal)

796 CLERK'S CERTIFICATE.

In the United States District Court of the Canal Zone, Division of Balboa.

United States of America,
Canal Zone, ss:

I, E. M. GOOLSBY, Clerk of the United States District Court of the Canal Zone, by virtue of the foregoing appeal and in obedience thereto, do hereby certify that the foregoing record, consisting of 795 typewritten pages, contains a true and complete transcript of the record and proceedings of the Court in the case of Elisa Arosemena de Diaz, Isabel Diaz de Jiminez, and Domingo Diaz A., Plaintiff-Appellants, vs. Guillermo Patterson, Defendant-Appellee.

In testimony whereof, I have caused the official seal of the Court to be hereunto affixed at Ancon in the Canal Zone this 23rd day of December, A. D. 1921.

E. M. GOOLSBY,
(Seal) Clerk of the Court.

That thereafter, the following proceedings were had in said cause in the United States Circuit Court of Appeals for the Fifth Circuit, viz:

Motion of Appellee to Dismiss Appeal and Notice Thereon.

Filed March 16th, 1922.

United States Circuit Court of Appeals, Fifth Circuit.

No. 3835.

DOMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Motion to Dismiss Appeal.

And now comes the appellee and respectfully moves this Honorable Court to dismiss the appeal filed herein, and for his cause, shows:

I.

That appellants in perfecting their appeal violated the provisions of Section (*a*) of Rule 75 of the Equity Rules in that, as is fully disclosed by the Transcript of Record in this cause filed, neither appellants nor their solicitor filed with the Clerk of the Court a qua, nor served upon appellee, nor upon his solicitor, a præcipe indicating the portions of the record to be included in the Transcript of Record.

II.

That appellants in perfecting their appeal violated Section (*b*) of Rule 75 of the Equity Rules in that they lodged no statement of the testimony to be included in the Transcript of Record in the office of the Clerk of the Court a qua, and did not notify appellee, nor his solicitor, of the contents of such statement, nor of what testimony would be included in said Transcript of Record, and appellants did not present any such statement to the Court a qua except upon five minutes' notice to the solicitor for the appellee, as is fully set forth and appears at page 151 of the Transcript of Record in this cause filed.

III.

That appellants in further violation of Section (*b*) of Rule 75 of Equity Rules, did not reduce or state the testimony taken in the Court a qua to narrative form, but caused the same to be incorporated in the Transcript of Record in full in question and answer form.

IV.

That the violations of the provisions of Section (*a*) and (*b*) of Rule 75 of the Equity Rules, as is set forth in paragraphs 2 and 3 of this motion, were duly called to the attention of the Court a qua, and to the attention of the solicitor for the appellants by the appellee, and due objection and protest were made to the approval of the statement of testimony by the appellee, as appears and is set forth at page 151 of the Transcript of Record.

V.

That appellants in perfecting their appeal have violated the provisions of Rule 76 of the Equity Rules in that the Transcript of Record contains many needless repetitions and reproductions of the same evidence and documents, among which appellee respectfully calls the attention of this Honorable Court to appellants' Exhibit "S"—a 20-page document—which is printed at pages 27-47, inclusive, of the Transcript of Record, and reprinted at pages 937-957, inclusive; and also to Exhibit "A-1-e" which is printed at pages 959-962, inclusive, and repeated at pages 989-994, inclusive; together with many other repetitions too numerous to mention but apparent upon a casual examination of said Transcript of Record.

VI.

That on account of the violations of the said Equity Rules by appellants, and the non-observance of the provisions thereof in reference to preparation of Transcript of Record, the transcript in this cause has become and is bulky, cumbersome and unintelligible, and has caused great and unnecessary costs in this cause.

Wherefore, appellee respectfully moves this Honorable Court that this appeal be dismissed, or, as an alternative, that all of the costs in this cause be adjudged against appellants or/and their solicitors as to this Court may seem just, right and equitable.

(Signed) WM. G. MacINTYRE,
Solicitors for Appellee.

New Orleans, La., March 16, 1922.

Certificate of Counsel.

William C. MacIntyre, counsel and solicitor for appellee herein, hereby certifies that he has given notice of this motion to the appellants herein by personally serving a copy hereof, together with notice that said motion will be called to the attention of this Court at 10.30 o'clock a. m., or as soon thereafter as counsel may be heard, on date of April 5, 1922, upon Mr. Irving R. Saal, of Milling, Godchaux, Saal & Miller, counsel and solicitors of record for appellants, on date of March 16, 1922.

(Signed) WM. C. MacINTYRE.

Argument and Submission.

Extract from the Minutes of April 5th, 1922.

No. 3835.

DOMINGO DIAZ A. et als.

versus

GUILLERMO PATTERSON.

On this day this cause was called, and, after argument by Harry P. Gamble, Esq., and William H. Jackson, Esq., for appellants, and Edwin T. Merrick, Esq., and William C. MacIntyre, Esq., for appellee, was submitted to the Court.

Opinion of the Court.

Filed May 10th, 1922.

In the United States Circuit Court of Appeals, Fifth Circuit.

No. 3835.

DOMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Appeal from the District Court of the United States for the Canal Zone.

William H. Jackson, Harry C. Gamble, Irving R. Saal and H. E. McEnerny for Appellants.

William C. MacIntyre, Edwin T. Merrick and Ralph J. Schwarz (Todd & MacIntyre and Merrick, Gensler & Schwarz on the brief), for Appellee.

Before Walker, Bryan, and King, Circuit Judges.

BRYAN, *Circuit Judge:*

The case is fully stated in 262 Fed. 899, upon a former appeal. There a decree in favor of the original plaintiffs and present appellants was reversed and the case remanded for findings upon the evidence as to possession of the land in dispute.

Upon the evidence then in the record, and upon additional evidence taken since, the trial court has found that the original defendant Patterson, appellee here, has been in actual adverse possession for more than 30 years; and, further, that appellants have

never been in possession of the lands in dispute. The Court also finds as a fact that appellee established record title.

Appellants do not assign error upon the finding that record title is in appellee, nor is it seriously contended that there was not testimony to support the other findings of fact. Some contention is made as to the credibility of witnesses for appellants, but the District Judge heard the witnesses testify, and also viewed the lands. There is abundant evidence to support the finding of fact as to appellee's possession, but no useful purpose would be served by setting it forth.

The principal argument for reversal of the decree below is upon the question of law decided upon the former appeal. It is again argued that the mere recording of a deed by one claimant interrupts the actual possession of an adverse claimant under a previously recorded title. We are convinced that this is not the law, and adhere to our former opinion.

The decree is affirmed.

Judgment.

Extract from the Minutes of May 10th, 1922.

No. 3835.

DOMINGO DIAZ A. et al.,

versus

GUILLERMO PATTERSON.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Canal Zone, and was argued by counsel;

On consideration whereof, It is now here ordered, adjudged and decreed by this Court, that the decree of the said District Court in this cause, be, and the same is hereby, affirmed;

It is further ordered, adjudged and decreed that the appellants, Elisa Arosemena de Diaz, Isabel Diaz de Jiminez, and Domingo Diaz A., be condemned, in solido, to pay the costs of this cause in this Court, for which execution may be issued out of the said District Court.

Petition for Rehearing.

Filed May 29th, 1922.

United States Circuit Court of Appeals, Fifth Circuit.

No. 3835.

DIMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Appeal from the District Court of the Canal Zone, Hon. W. Hanan, Judge.

Application for Rehearing on Behalf of Appellants.

To the Honorable Judges of the United States Circuit Court of Appeals for the Fifth Circuit:

The petition of Domingo Diaz A., the appellant herein, shows unto your Honors, that being aggrieved by the decree of your Honorable Court entered in this cause on the 10th day of May, 1922, by which your Honorable Court affirmed the decree of the District Court, he avers errors in said decree, to-wit:

I.

The Court says "Appellants do not assign error upon the finding" (referring to the finding of the District Court) "that record title is in appellee. * * *" Your Honors err in this, since on page 119 of the transcript, in the second assignment of error, it is averred that the trial court "erred in the following numbered findings of fact, * * *" including number **thirty-two**, which reads as follows, as found on page 72 of the transcript:

"32. As a final and ultimate fact, the Court finds: that plaintiffs have established no title to, nor have plaintiffs ever been in possession of any of the lands in controversy, in this action, **but that the defendant and his predecessors in interest have established good, valid and recorded title to all of said property** since the year 1695, and have been in actual, notorious, open, adverse and uninterrupted possession of all the lands in controversy since the year 1790 until the present time." (Black letters ours.)

Whence it now becomes necessary for your Honors to determine the issue which is thus denied and vigorously contested, and which is of the essence of the case.

II.

The Court says "There is abundant evidence to support the findings of fact as to appellee's possession, * * *" referring to his claim of possession for 30 years of 1,300 acres of uninclosed, wild plains and foothills. This is error, for the evidence referred to nowhere shows possession of the 1,300 acres, constituting the disputed area, but only sporadic possession of a few small and separated clearings, not one of which, separately, equals one per cent of the whole, and most of which are each less than one-quarter of one per cent of the whole; and all of which added together do not equal 35 acres; such possession being that of temporary squatters and nomads, all as shown by the Government map submitted by Captain Malsbury.

III.

That it is error to hold that such possession of wild lands is in law sufficient to divest the record title of another and to acquire the land without title.

That these errors require a review and re-hearing of the cause.

Wherefore, petitioner humbly prays that your Honors will grant this application for a re-hearing.

HARRY P. GAMBLE,
WILLIAM H. JACKSON,
HARRY EMMET McENERNY,
Attorneys for Appellant.

I certify that the appellant, Domingo Diaz A. is a resident of the City of Panama, Republic of Panama, and not here present to personally sign this application for a rehearing; and that the same is not made for the purpose of delay, but in good faith.

HARRY GAMBLE.

Argument.

To the Court:

Our argument is this, your Honors: Your Honors have erred in assuming and stating that we admit that Patterson has a record title to the disputed area; now, seeing that we made no such admission, but, on the contrary, in the assignment of errors, and elsewhere throughout the whole record, we contended that the deeds of appellee did not cover the disputed territory, it would now be required of your Honors to investigate and determine that issue. For, obviously, if the record title of appellee does not cover the whole, or some part of the disputed area, then acquisition, by prescription, of wild, uninclosed foothills must be had by him by thirty years of "possession without violence, concealment or interruption." (Art. 2531, Civil Code of Canal Zone.) And interruption of possession takes place

"by reason of another having entered thereon." (Art. 2523, Civil Code of Canal Zone.)

If your Honors were, on re-hearing, to find, as we contend you will find, that appellee's record title does not cover the disputed area, or covers only part of it, then it must be admitted that appellee's case becomes much harder, and, indeed, impossible, since it is a legal impossibility to show, and appellee does not show, possession of 1500 acres of uninclosed jungle and mountain foothills, by evidence of sporadic possession of six or eight one and two acre clearings occupied by nomads, and that, too, when appellant was holding the same kind of possession, though, perhaps, by a fewer number of the same kind of persons.

That is to say, having erred in believing that appellant admitted record title in Patterson, and now finding that Diaz throughout contested that very point, the Court ought, we submit, to re-hear the case to determine that issue. That Patterson did not have such a record title was held by the first trial court and the Supreme Court of Panama. Especially did both those Courts hold that the last mark, Mata Redonda, referred to in appellee's title deeds, was near the old chapel ruins, west of the river Hondo, which, if so found by your Honors, would, otherwise admitting the utmost claims of Patterson, diminish the area which his record title would then cover, and give him record title to but approximately one-half of the disputed area; that is, to that portion northwest of the line from the Mata Redonda, near the chapel, to one of the Algarrobo Hills. This would then raise the question as to whether Diaz is divested of the remainder of the disputed area by a sufficient proof of possession of thirty years in Patterson. Thus, is seen how tremendously important to appellant is the correction of your Honors' error to the effect that we have admitted the record title of appellant as covering the disputed area. That not being admitted, but contested as the main point of difference, your Honors are bound, we submit, to determine that question and to determine it by your own examination of the record, in view of the direct conflict on this point of the two trial judges.

If your Honors should on examination of that question for yourselves, determine that the record title of Patterson did not cover all or any part of the disputed area, and as a necessary corollary that Diaz has record title to all or a part, then we have the utmost confidence that the judgment of the lower court must be reversed, since there is no evidence of possession of appellee from beginning to end of the record of the kind and extent to sustain by prescription a claim to more than thirty-five acres of the disputed area of 1,500 acres. And hence the record title of Diaz would not be divested.

Wherefore, it is prayed that the rehearing be granted.

HARRY GAMBLE,
WM. H. JACKSON,
HARRY E. McENERNY,
Attorneys for Appellant.

Order Denying Rehearing.

Extract from the Minutes of June 19th, 1922.

No. 3835.

DOMINGO DIAZ A. et als.

versus

GUILLERMO PATTERSON.

It is ordered by the Court that the petition for rehearing filed in this cause, be, and the same is hereby, denied.

Petition for Appeal and Order Granting Same.

Filed August 5th, 1922.

United States Circuit Court of Appeals, Fifth Circuit.

No. 3835.

DOMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Appeal from the District Court of the Canal Zone, Hon. John W. Hanan, Judge.

To the Honorable the Judges of the United States Circuit Court of Appeals for the Fifth Circuit:

Elisa Arosemena de Diaz, Isabel Diaz de Jiminez, and Domingo Diaz A., appellants, feeling aggrieved by the decree rendered and entered in the above entitled and numbered cause on the 10th day of May, 1922, do hereby appeal from the said decree to the Supreme Court of the United States, for reasons set forth in the assignment of errors filed herewith, and they pray that this appeal be allowed, and that citation be issued as provided by law; and that a transcript of the record proceedings and documents upon which said decree was based, duly authenticated, be sent to the Supreme Court of the United States, under the rules of said court and in such cases provided;

And your petitioners further pray that the proper order relating to the required security to be required of them be made.

(Signed) HARRY P. GAMBLE,
W. H. JACKSON,
H. E. McENERNY,
Attorneys for Petitioners.

STATE OF LOUISIANA,
Parish of Orleans:

Before me, the undersigned authority in and for the Parish of Orleans, personally came and appeared Harry Gamble, who being by me first duly sworn, did depose and say:

That he is attorney of record in No. 3835, United States Circuit Court of Appeals for the Fifth Circuit, Domingo Diaz A. et als. vs. Guillermo Patterson, and that the amount involved in said suit exceeds $1,000.00, and is in fact, the sum of $26,100.00, which amount is on deposit in the District Court, a fact shown in the record in this cause, page 61, and announced in the second finding of fact in the Court, and at other places in the record.

(Signed) HARRY GAMBLE.

Sworn to and subscribed before me this 22 day of July, 1922, at New Orleans, Louisiana.

(Signed) FRANK H. MORTIMER,
Clerk U. S. Circuit Court of Appeals.

In the United States Circuit Court of Appeals for the Fifth Circuit.

No. 3835.

DOMINGO DIAZ et al., Appellants,

vs.

GUILLERMO PATTERSON, Appellee.

Order.

Upon petition of attorneys for Appellants, it is hereby ordered that an appeal to the Supreme Court of the United States from the decree heretofore filed and entered herein, be, and the same is hereby allowed, and that a certified transcript of the record, testimony, exhibits, stipulations and all proceedings be forthwith transmitted to the said Supreme Court of the United States.

It is further ordered that the bond on appeal be fixed in the sum of $5,000.00, the same to act as a supersedeas bond and also for costs and damages on appeal.

(Signed) R. W. WALKER,
U. S. Circuit Judge.

July 24th, 1922.

Assignments of Error.

Filed August 5th, 1922.

United States Circuit Court of Appeals, Fifth Circuit.

No. 3835.

DOMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Appeal from the District Court of the Canal Zone, Hon. John W. Hanan, Judge.

To the Honorable the Judges of the United States Circuit Court of Appeals for the Fifth Circuit:

Now come, the plaintiffs below, appellants herein, to wit: Elisa Arosemena de Diaz, Isabel Diaz de Jimines, and Domingo Diaz A., and show the Court that the decree entered in the above cause on the 10th day of May, 1922, is erroneous for the reasons, which have been heretofore asigned as error in the United States district Court, for the Canal Zone, the Balboa Division thereof, which errors are found in the record at pages 118-119-120-121, and which errors were committed by your Honorable Court in that you affirmed the judgment of the District Court for the reasons assigned by said Court. The errors, therefor-, committed by your Honors, consist:

(1) Because the Court erred in sustaining the motion of the defendant in striking the plea of res judicata made on behalf of the plaintiffs in their reply to the affirmative allegations set forth in the answer of the said defendant.

(2) Because the Court erred in the following numbered findings of fact as set forth in the decree filed herein, to-wit: Nos. 1, 2, 3, 6, 7, 8, 9, 10, 23, 25, 26, 27, 30, 31, and the lettered paragraphs thereof, 32 and 33, for the reason there is no legal evidence to support the same.

(3) Because the Court erred in refusing the first finding of fact submitted on behalf of the plaintiffs, with special reference to the description of the property therein set forth.

(4) Because the Court erred in refusing the third, fourth and fifth findings of fact submitted on behalf of plaintiffs.

(5) Because the Court erred in refusing the sixth finding of fact submitted on behalf of plaintiffs, with special reference to the boundaries of the lands and estate of "Lo de Caceres," as therein set forth.

(6) That the Court erred in refusing the seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth and seventeenth finding of facts submitted on behalf of the plaintiffs herein.

(7) Because the said decree is contrary to the law and the prayer for relief of defendant's answer filed herein, and is unsupported by the evidence introduced in the trial hereof.

(8) Because the said decree should have been in favor of the plaintiffs and against the said defendant, under the pleadings and proof submitted in the trial hereof.

(9) Because the Court erred in refusing to admit the evidence submitted on behalf of the plaintiffs, and ruling that the same was incompetent or admitting the same conditionally, over the objections of the plaintiffs, to which rulings exceptions were duly taken, as such evidence will more particularly appear in the memorandum hereto annexed, marked Exhibit "A," as a part of the Ninth Assignment of Error.

(10) Because the Court erred in admitting incompetent and illegal evidence submitted on behalf of the defendant over the objections of the plaintiffs, to which ruling of the Court exceptions were duly saved, as such evidence, rulings and exceptions will more fully appear in the memorandum hereto annexed, marked "Exhibit B," as part of the Tenth Assignment of Error."

(11) Because the Court erred in said decree, wherein it is ordered that the full amount of $26,160.00, as set forth in the second finding of fact, made by the Court, be paid to the said defendant, for the reason, that the awards mentioned in said finding of fact show on their face, there are other claimants to the said fund, who have never been made parties to this action, as will more fully appear from the copy of said awards hereto annexed, marked "Exhibit C," as a part of the Eleventh Assignment of Error."

(12) Because the Court erred in failing to sustain the motion of defendant made at the conclusion of the introduction of evidence on behalf of the plaintiff for a dismissal of the case, for the reason that the Court proceeded to warn the attorney for the defendant as to the result should his said motion be sustained, and thereupon gave to the defendant the recess of Court in order for the attorney for the defendant to determine what course of action he would pursue in view of the warning given to him by the Court, as the same will more fully appear from a copy of the proceedings and transcript in that behalf hereto annexed, and marked "Exhibit D," as a part of the Twelfth Assignment of Error.

As respects these assignments of error, petitioners prefer to and adopt the exhibits printed in the record on pages 121 to 142, inclusive, being Exhibits, A, B, C and D, as a part of the assignment of errors and supplementary thereto.

Wherefore, Plaintiffs and Appellants pray that the said decree of the United States Circuit Court of Appeals for the Fifth Circuit,

be reversed, and that such judgment, decrees and orders be made as in justice and equity Plaintiffs and Appellants are entitled to receive.

(Signed) HARRY P. GAMBLE,
W. H. JACKSON,
H. E. McENERNY,
Attorneys for Petitioners and Appellants.

Bond on Appeal.

Filed August 5th, 1922.

United States Circuit Court of Appeals for the Fifth Circuit.

No. 3835.

DOMINGO DIAZ A. et al., Appellants,

versus

GUILLERMO PATTERSON, Appellee.

Bond on Appeal.

Know all men by these presents, That we Domingo Diaz A., Elisa Arosemena de Diaz and Isabel Diaz de Jiminez, as principals, and United Sates Fidelity and Guaranty Company of Baltimore, Maryland, as surety, said surety being hereby authorized by the Secretary of the Treasury, in this District, are held and firmly bound unto Guillermo Patterson, in the sum of Five Thousand Dollars ($5,000.00), lawful money of the United States, to be paid to him and his executors, administrators and successors; which payment, well and truly, to be made, we bind ourselves and each of us jointly and severally, and each of our heirs, executors and administrators, by these presents.

Sealed with our seals and dated this 31st day of July, 1922, at New Orleans, Louisiana.

Whereas, the above named Domingo Diaz A., Elisa Arosemena de Diaz and Isabel Diaz de Jiminez, plaintiffs in the District Court, and appellants in this Court, have prosecuted an appeal to the Supreme Court of the United States to reverse a judgment of the United States Circuit Court of Appeals for the Fifth Circuit, in the above entitled causes:

Now, therefore, the condition of this obligation is such that if the above named Domingo Diaz A., Elisa Arosemena de Diaz and Isabel Diaz de Jiminez shall prosecute their said appeal to effect and answer all costs and damages if they fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and effect.

(Signed) DOMINGO DIAZ A.,
ELISA AROSEMENA DE DIAZ,
ISABEL DIAZ DE JIMINEZ,
(Signed) By HARRY GAMBLE,
Atty.
UNITED STATES FIDELITY & GUARANTY COMPANY OF BALTIMORE, MARYLAND,
(Signed) By L. L. BEBOUT, [SEAL.]
Attorney in Fact.

STATE OF LOUISIANA,
Parish of Orleans:

The undersigned certifies that it has been duly recognized and qualified by the Secretary of the Treasury of the United States to become surety upon appeal bond in the Fifth Circuit of the United States Circuit Court of Appeals, as shown by a certificate to that effect in the United States District Court for the Eastern District of Louisiana, in the Parish of Orleans, State of Louisiana; and that the person signing this certificate is authorized to make this declaration on behalf of the Company and to sign such bonds in the said jurisdiction.

UNITED STATES FIDELITY & GUARANTY COMPANY.
(Signed) L. L. BEBOUT,
Mgr. and Its Attorney-in-Fact.

Subscribed and sworn to before me this 1 day of August, 1922, at New Orleans, La.
(Signed) HARRY EMMET McENERNY,
[SEAL.] *Notary Public.*

Approval of the Judge.

The within bond is approved both as to sufficiency and form, this 3rd day of August, 1922, at Huntsville, Alabama.
(Signed) R. W. WALKER,
United States Circuit Judge.

Motion and Order to Transmit Original Exhibits to U. S. Supreme Court.

Filed August 16th, 1922.

United States Circuit Court of Appeals, Fifth Circuit.

No. 3835.

DOMINGO DIAZ A. et al., Appellants.

vs.

GUILLERMO PATTERSON, Appellee.

Appeal from the District Court of the Canal Zone, Hon. John W. Hanan, Judge.

Motion and Order.

To the Honorable the United States Circuit Court of Appeals for the Fifth Circuit:

Now comes Domingo Diaz A., et als., plaintiffs and appellants herein, through undersigned counsel, and shows your Honorable Court that there are certain maps offered in evidence in this case which are necessary to go to the Supreme Court of the United States in the original; that they are:

Plaintiffs' exhibits "T"—"2"—"3."
Defendants' exhibits "A" "A-3."

Wherefore, it is prayed that your Honorable Court grant authority for the said exhibits to be inserted in the transcript in the original.

(Signed) HARRY GAMBLE,
Atty.

Order.

In consideration of the foregoing, it is ordered that the Clerk of the United States Circuit Court of Appeals for the Fifth Circuit, at New Orleans, Louisiana, include in the transcript of appeal to the Supreme Court of the United States the following exhibits in the original:

Plaintiffs' exhibits "T"—"2"—"3."
Defendants' exhibits "A" "A-3."

(Signed) NATHAN P. BRYAN,
Judge of U. S. Circuit Court of Appeals.

Clerk's Certificate.

UNITED STATES OF AMERICA:

United States Circuit Court of Appeals, Fifth Circuit.

I, Frank H. Mortimer, Clerk of the United States Circuit Court of Appeals for the Fifth Circuit, do hereby certify that the pages numbered from 1118 to 1139 next preceding this certificate contain full, true and complete copies of all the pleadings, record entries and proceedings, including the opinion of the United States Circuit Court of Appeals for the Fifth Circuit, in a certain cause in said Court, numbered 3835, wherein Domingo Diaz A., et al., are appellants, and Guillermo Patterson is appellee, as full, true and complete as the originals of the same now remain in my office.

I further certify that the pages of the printed record numbered from ~ to 1117 are identical with the printed record upon which said cause was heard and decided in the said Circuit Court of Appeals.

I further certify that the maps marked Plaintiffs' exhibits "T"—"2" and "3," and Defendants' exhibits "A" and "A-3," forwarded to this Court in the original, are transmitted herewith to the Supreme Court of the United States in the original, as per stipulation of counsel copied at page 1139 of this record.

In testimony whereof, I hereunto subscribe my name and affix the seal of the said Circuit Court of Appeals, at my office in the City of New Orleans, Louisiana, in the Fifth Circuit, this 17th day of August, A. D. 1922.

[Seal of United States Circuit Court of Appeals, Fifth Circuit.]

FRANK H. MORTIMER,
Clerk of the United States Circuit Court of Appeals, Fifth Circuit.

THE UNITED STATES OF AMERICA:

The President of the United States to Guillermo Patterson, defendant in Equity Suit No. 3835, and Appellee in the United States Circuit Court of Appeals for the Fifth Circuit, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States at Washington, D. C., within 30 days from the date hereof, pursuant to an appeal sued out and filed in the Clerk's Office of the United States Circuit Court of Appeals for the Fifth Circuit, in the cause wherein you are defendant in the United States District Court, Canal Zone, Balboa Division, where Domingo Diaz A. et als. are plaintiffs—appealed to the United States Circuit Court of Appeals for the Fifth Circuit, where you are appellee, being No. 3835 in Equity to show cause, if any there be, why the judgment rendered against the said Diaz A. et als. and in said Equity Suit No. 3835 mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable William Howard Taft, Chief Justice of the United States, this 3rd day of August in the year of our Lord one thousand nine hundred and twenty-two.

R. W. WALKER,
United States Circuit Judge.

[Endorsed:] R. No. 3835. United States Circuit Court of Appeals, Fifth Circuit. Domingo Diaz A., et als., vs. Guillermo Patterson. Citation. Filed 5th day of August, 1922. Frank H. Mortimer, Clerk of the United States Circuit Court of Appeals.

Received by U. S. Marshal, New Orleans, La., Aug. 7/22 and on the same day, month and year I served this writ on Guillermo Patterson by handing same to his attorney of record, Mr. E. T. Merrick, in person, in the City of New Orleans, Louisiana.

VICTOR LOISEL,
U. S. Marshal,
By H. C. MOSELEY,
Deputy U. S. Marshal.

Filed 8th day of August, 1922.
FRANK H. MORTIMER,
Clerk of the United States Circuit Court of Appeals.

Endorsed on cover: File No. 29,122. U. S. Circuit Court of Appeals, 5th Circuit. Term No. 572. Domingo Diaz A., et al., appellants, vs. Guillermo Patterson. Filed Sept. 1st, 1922. File No. 29,122.

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Supreme Court of the United States.

DOMINGO DIAS, *et al.*,
Appellants,
vs.
GUILLERMO PATTERSON.

October Term, 1922.
No. 118.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT.

BRIEF FOR APPELLANTS.

Statement of the Case as to Error in the Construction of Article No. 2526 of the Civil Code of Panama and the Canal Zone.

This is an appeal to this Court from the judgment and decree of the United States Circuit Court of Appeals for the Fifth Circuit, filed May 10th, 1922.

The suit was originally brought in the District Court of the Canal Zone in November, 1917, and was decided October 24th, 1918, in favor of the plaintiff therein, Domingo Dias, by the writer of this brief, who was then the judge of that court. From that judgment there was an appeal to the Circuit Court of Appeals for the Fifth Circuit, resulting in a reversal in an opinion of the Circuit Court of Appeals filed February 9th, 1920 (see *Patterson* v. *Dias*, 262 Fed. Rep., p. 899), the case being remanded for further proceedings not inconsistent with the opinion.

Pursuant to this reversal a second hearing was

had in the District Court of the Canal Zone before the Honorable John W. Hanan, the then Judge of said Court, resulting in a decision and decree in favor of the defendant Guillermo Patterson, filed May 27th, 1921 (see Record, pp. 54 to 76), and on appeal by Dias from this second decree the same was affirmed on May the 10th, 1922 (see Opinion, Circuit Court, Record, pp. 1122, 1123) and the case is now here on appeal from this affirmance by the Circuit Court of the decree in the second hearing.

The action was originally brought by Dias, *et al.* (hereinafter always referred to as "plaintiff" or "Dias"), against Guillermo Patterson (hereinafter always referred to as "defendant" or "Patterson"). Dias claimed to be the owner of an estate called "Lo de Caceras", lying partly in the Republic of Panama and partly in the Canal Zone, and pleaded that Patterson claimed to be the owner of an estate called Mata Redonda, which adjoined Caceras on the West, and that Patterson claims an interest in and to the portion of the real estate described in the tenth paragraph of the complaint, meaning the western portion, or that part of Caceras lying in the Canal Zone.

> "and plaintiffs allege that the claim of defendant is without any right whatever; that the defendant has not any estate, right, title or interest whatever in said land or premises, or any part thereof; that the defendant is out of possession and the plaintiffs are in possession of said premises; that the defendant has filed with the Joint Land Commission a claim to certain portion of the said tracts of land, the extent and area of which portion is unknown to plaintiffs" (Record, pp. 14, 15).

The Joint Land Commission was a joint commission appointed by the United States and the Republic of Panama to value lands expropriated by

the United States in the Canal Zone. The plaintiff thus asserted title and possession in himself and denied title and possession in the defendant; but asserted that, nevertheless, the action of defendant constituted a cloud upon his title, especially by the claim filed with the Joint Land Commission. The plaintiff, therefore, prayed as follows:

> "that the defendant be required to set forth the nature of his claim, *and that all adverse claims be determined by this Court*, that by said decree it be declared and adjudged that plaintiffs are the owners of said lands and entitled to the possession thereof; and that defendant has no estate or interest whatever in or to said land, and that defendant be forever barred from asserting any claim whatever in and to said land and premises adverse to plaintiffs. And for such other and further relief as to equity shall seem meet and proper" (First Record, p. 7).

To this demand the defendant answered:

> "that he is the owner in fee simple of that portion of the estate of Mata Redonda, situated in the Canal Zone, bounded and described as follows" (describing it.) "and that he, together with his predecessors in interest, have been in the open, exclusive, notorious, interrupted, continuous, hostile and adverse possession of the lands hereinbefore described since the year 1695, as is more fully shown by the instruments hereunto annexed, marked exhibits 'B2 to O.' inclusive, and made an integral part of this answer."

The defendant therefore prayed "that he be confirmed by decree of this Court in the ownership of the said lands and improvements; that the plaintiff recover nothing by this action."

The case thus presented was an equitable proceeding wherein each party claimed the disputed

area by title and each claimed to be in possession, and prayed to be protected in the enjoyment thereof.

For a full understanding of the case, it is necessary to refer briefly to the first hearing before the District Court of the Canal Zone, decided October 24th, 1918. The trial court on that hearing decided fully in favor of the plaintiff and decreed as he prayed. The Court found that:

> "the determination of the question here presented depends upon,
>
> *"First:* The location of Pena Hueca or Mata Redonda, referred to in the title deeds of both plaintiffs and defendant (meaning a decisive landmark).
>
> *"Second:* Whether or not the piece of property here in controversy has been acquired by prescription by one of the parties litigant, inasmuch as it appears that the said property in dispute is included within the description contained in the title deeds of plaintiffs and of defendants."

Caceras is the name of the estate of plaintiff and Mata Redonda the estate of defendant. The boundary between the two properties ran from Mata Redonda to a point called Macomba. Macomba not being in dispute the swaying of the landmark, Mata Redonda, one way or the other, makes the controversy and was one of the decisive points upon which the case was decided on the first hearing.

The trial court, on the first hearing, held with the plaintiff as to the location of the landmark, Mata Redonda, first, because the title deeds of an adjoining estate, San Jose, owned by the Arosemena family so located Mata Redonda, second, the preponderance of testimony, and, third, the characteristics of the place in dispute.

On the question of acquisition by prescription, the trial court stated:

> "First, both parties claim actual physical possession and there was proof tending to show actual physical possession in each of undetermined parts and at various periods.
>
> "Second, it is doubtful if actual physical possession of the whole is shown or can by legal requirements be shown in either by actual physical possession of parts."

Further, the Court said:

> "It seems clear to me that the enormous mass of testimony adduced by both parties relating to acts of possession of the soil on some undetermined and indefinite pieces of the land in dispute cannot help the Court in the determination of the issues involved" (Record, First Trial, p. 345).

The Court then stated:

> "From the foregoing it is evident that for the determination of the question of prescription it is necessary to examine the *recorded possession* which the parties may have to the lands in dispute."
>
> "The plaintiffs claim by reason of a certain title deed executed in 1832 wherein the boundary of Lo de Caceres on the side of Mata Redonda is a certain imaginary line from Mocambo Hill to the Mata Redonda. This line seems to be the one now claimed by said plaintiffs. The defendant on the other hand shows that he has title by a certain chain of conveyances starting from the 26th of March, 1859, down to 1891, where in the boundaries of Mata Redonda are given in a manner that is clearly in conflict with that given in the Lo de Caceres deed of 1832."

"The only way to decide the conflict that arose in 1859 is by bearing in mind section 2526 of the Civil Code, which reads as follows:

"The acquisitive prescription of real property or of real rights constituted therein does not obtain against a recorded title, except by virtue of another recorded title, nor shall it begin to run but from the date of the record of the second."

The section of the Civil Code No. 2526 above quoted is, and was at that time, the law prevailing in both the Canal Zone and the Republic of Panama.

The trial court on this first hearing then likewise held with the plaintiff on the question of title to the property in dispute, basing its conclusion on what is known as "registered" or "symbolic" possession as distinguished from actual possession under the laws of Panama and the Canal Zone, and stated, quoting from a decision of the Supreme Court of Colombia, as follows:

"If in a delineation suit one of the parties attempts to prove that he has been in possession of land in dispute by means of oral evidence and the other shows the same by means of a recorded instrument, the recorded instrument must prevail" (see First Record, p. 346).

As stated, the Circuit Court of Appeals reversed the decree of the District Court on this first hearing and for the following reasons as stated by the Court:

"Civ. Code Canal Zone, art. 2526, providing that 'the acquisitive prescription of real property does not obtain against a recorded title, except by virtue of another recorded title,' does not give the mere recording of a deed by one

claimant the effect of interrupting or rendering ineffective the actual possession of an adverse claimant, who holds under a previously recorded title."

And here we would call attention to the fact that the Circuit Court in quoting this Article 2526 omits therefrom the last part, which we think has an important bearing on the case, viz., "nor shall it begin to run but from the date of the record of the second." And further the Circuit Court said:

"The opinion rendered by the trial judge shows that the decree in favor of the plaintiffs resulted from the conclusion that, under the following provision of the Civil Code of the Canal Zone, the recording in 1895 of the conveyances under which the plaintiff's predecessor in title claimed had the effect,—though neither such claimant nor any one claiming through him got possession of the land in dispute, of preventing the acquisition by the defendant of the ownership of such land by the continuance thereafter of the possession commenced by a predecessor of the defendant, to which the latter succeeded when the deed to him was made and recorded in 1891, and from which he was not ousted."

"In view of the above-mentioned condition of the evidence adduced, the quoted part of the court's opinion plainly indicates that the case was disposed of on the theory that, assuming, without determining from the evidence adduced, that the defendant and those through whom he claimed had continuous and uninterrupted possession under claim of ownership for the length of time required to confer title by prescription, that possession was ineffective in his behalf from the date of the recording of a deed describing the land, made by an adverse claimant to a third person, though neither the grantee in such deed nor any one through whom he claimed, or who

claimed under him, acquired possession of any of the land described therein, and though the conveyances under which the defendant claimed were first recorded."

"It appears from the record that the decree appealed from was based upon the conclusion that the plaintiffs had acquired by prescription the ownership of the land sued for, without that land having been possessed by them or by any one through whom they claimed, and though their petition did not assert the claim that they were by prescription entitled to that land. The court erred in so concluding."

262 Fed. Rep. 899.

After this reversal by the Circuit Court, the trial court on the second hearing, May 27th, 1921, found the landmark of Mata Redonda or Pena Hueca as claimed by defendant Patterson (Record, p. 61), and also, following the decision of the Circuit Court, found title and possession in favor of Patterson in its finding No. 32 (Record, p. 72), as follows:

"As a final and ultimate fact the Court finds: that plaintiffs have established no title to, nor have plaintiffs ever been in possession of any of the lands in controversy in this action, but that the defendant and his predecessors in interest have established good, valid and recorded title to all of said property since the year 1695, and have been in actual, notorious, open, adverse and uninterrupted possession of all of the lands in controversy since the year 1790 until the present time."

This finding as to possession we will say was squarely in conflict with that of the Circuit Court of Appeals wherein it stated, as follows:

"There was no evidence to support a finding as to who was in possession of the land in dispute prior to 1869."

262 Fed. Rep., p. 899.

Nevertheless, such finding as to possession still left open, as we will attempt to show, the question as to the priority of Diaz' rights under Article 2526 relating to acquisitive prescription; and on appeal from the second hearing the Circuit Court on said second appeal reaffirmed its view of the law in this respect in its opinion filed, wherein the Court states:

> "The principal argument for reversal of the decree below is on the question of law decided upon the former appeal. It is again argued that the mere recording of a deed by one claimant interrupts the actual possession of an adverse claimant under a previously recorded title. We are convinced that this is not the law and adhere to our former opinion. The decree is affirmed."
>
> (Record, pp. 1120-1121.)

And so this question is here again presented; and we submit that both on the first and second appeals the Circuit Court erred in this respect. This is one of our assignments of error covered by Assignments Nos. 7 and 8 (Record, p. 1128), as follows:

> "7. Because the said decree is contrary to law and the prayer for relief of defendants' answer filed herein and is unsupported by the evidence introduced in the trial.
>
> "8. Because the said decree should have been in favor of the plaintiffs and against the defendant under the pleadings and proof submitted in the trial hereof."

Statement of the Case as to the Absence of Necessary Parties on the Second Hearing, Herein Appealed From.

On the second hearing before the trial court, there was introduced in the case a most important matter that was not before it at the first hearing and consequently not before the Circuit Court on the first appeal. To this we would call particular attention as we think it is decisive of the case before this Court, and clearly calls for a reversal. The facts in this respect are as follows:

At the time of the decision in the first hearing, there was then pending, but undetermined, before the Joint Land Commission a claim presented by the defendant, Patterson, in 1914, against the United States, for $625,000, for the alleged value of the Mata Redonda and Caceras properties, which had been appropriated by the United States, consisting of 1101 hectares, and the Joint Land Commission, after this decision of the District Court, to wit: on January 24th, 1919, rendered its award as follows:

> ". . . It is stipulated by counsel that the entire area known as 'Mata Redonda', subject to the present claim, consists of 1101 hectares. Of this area 565 hectares are the undisputed property of Guillermo Patterson, the above named claimant. The remaining 536 hectares are the subject of a dispute between the following parties:
>
> "1. Guillermo Patterson.
>
> "2. The Aleman Family consisting of Josefina Vallarino de Aleman, Jose Maria Aleman, and Adolfo Aleman, V., heirs of Adolfo Aleman, who are claimants in claim docket No. 3257, covering the property known as 'La Gloria'.

"3. The Arosemena Family consisting of Ernesto Arosemena, Carlos C. Arosemena, Florencio Arosemena, Dolores H. Arosemena, Hercillia D. Arosemena, Delia Arosemena de Uribe, who are claimants in claim docket No. 3737, covering the property known as 'San Jose'.

"4. Domingo Diaz, in his own name and as attorney in fact for Mrs. Elisa a vda. de Diaz, and Isabel Diaz de Jimenez, heirs of Domingo Diaz, claimant in claim docket No. 3260 covering the property known as 'Lo de Caceras'.

"After the termination of the trial of the case, and while the matter was still under submission before the Joint Commission, our attention was called to a stipulation signed by counsel for the interested parties, agreeing to the making of an award in the total sum of Six thousand dollars for the improvements on the lands above referred to, exclusive of pastures, and in accorance with this stipulation an award in the sum of Six Thousand dollars ($6,000.00) was made by the Commission on the 16th day of January, 1919.

"The Commission, after carefully considering the evidence submitted both by the claimant and the Government, and the awards heretofore made by the Commission, as at present constituted, has unanimously decided upon an award in the sum of Thirty-seven Thousand Two Hundred Eighty-five dollars ($37,285.) U. S. Currency. This amount is hereby directed by the Commission to be paid as follows:

"To Guillermo Patterson, claimant above named, the sum of Fourteen Thousand, One Hundred Twenty five dollars, $14,125.00, for all right, title and interest the said Guillermo Patterson may possess or may have possessed in and to the 565 hectares of the Mata Redonda estate not in dispute. described in claim docket No. 2565, including any and all damages, sustained on account of the expropriation of this property by the United States of America.

> "The sum of Twenty-three thousand one hundred sixty dollars, U. S. Currency, $23,160.00, representing the value of the lands embraced in the disputed area, consisting of 536 hectares including any and all damages sustained on account of the expropriation of this property by the United States of America, is hereby ordered deposited in the District Court of the Canal Zone, Balboa Division, to await the decision of said court as to the ownership thereof" (Record, pp. 140-142).

The additional damage sustained as referred to in the award was $3,000, thus making the total $26,120 (see Record, p. 139).

As stated, the award of the Joint Land Commission formed no part of the record of the first case before the Circuit Court wherein the judgment of the lower court was reversed (see *Patterson* v. *Diaz*, 262 Fed. Rep. 899). Nor was the question called to the attention of the court at that time.

The case came on for a second hearing in the District Court of the Canal Zone in May, 1921, and at that time the plaintiff Diaz filed an amended answer in which attention was specifically called to said award and prayed that the adverse claimants to the said sum of $126,160 be summoned, as follows:

> "Wherefore your petitioners pray that your Honor take cognizance hereof, and to that end summon all parties having or claiming to have any right, title or interest in and to the lands described in the Second Paragraph hereof, to be and appear before this Court on a day certain, then and there to assert their respective claims and demands against the said real estate, and to answer the allegations of this petition, and that upon final hearing hereof, your Honor will be pleased to decree, establish and confirm your petitioners in the absolute

ownership, right and title in fee simple in and to the said lands, *and to the fund heretofore deposited in the registry of this Court as the price thereof upon the expropriation by the United States*, and your petitioners further pray for their costs and for such other and further relief as to justice and equity shall appertain" (Record, p. 15).

For some reason which does not appear in the Record, these other adverse claimants to the fund were not made parties; and it should be noted that the defendant Patterson who had filed an amended answer and cross-petition to the amended complaint did not ask to have the adverse claimants to the fund cited, nor did he pray that the fund in question be adjudged to him. His prayer is simply that he be confirmed by decree of the Court in his ownership of said land and improvements and that the plaintiff recover nothing by this action (Record, p. 23).

The 7th Assignment of Error referred to herein embraces this point wherein it states that the decree adjudging the fund to Patterson is contrary to law, *and the prayer for relief of defendants' answer filed herein.*

The trial court on this second hearing of the case made special findings of fact and conclusions of law, which were filed on May 27th, 1921, and in No. 2 thereof, there appears a specific finding as to said award, thus showing that the same was expressly called to the attention of the court. The court in this respect found as follows:

"2. That pursuant to proceedings instituted before the Joint Commission, appointed and acting under the terms of the treaty between the United States and the Republic of Panama, the said Joint Commission, did, under

> date of January 24, 1919, make its award for the value of the property in dispute between plaintiffs, and defendant, above described, in the sum of $26,160.00; and it ordered said sum of $26,160., United States currency, paid into the registry of this Court, to abide the decision of this Court as to the ownership thereof" (Record, pp. 61, 62).

and then, having found title and possession of the property in Patterson, that is, as between Patterson and Diaz, the Court proceeded to adjudge and decree the entire trust fund of $26,160 to Patterson, notwithstanding the fact that there were other claimants to the fund, who had not been cited, and who had not been heard as to their claims thereto. In this respect the court decreed as follows:

> "And that defendant have judgment for the possession of *all of the funds or moneys* deposited in this Court by the United States of America through an award of the Joint Commission for the owner of the lands in dispute in this cause, for the lands and improvements, together with all of the interest thereon accrued and which may hereafter accrue, the original award for the land deposited in Court is Twenty-three thousand, one hundred and sixty dollars ($23,160) and for the improvements, Three thousand dollars ($3,000.00); United States currency,—together with all costs of this action" (Record, pp. 75, 76).

This was specifically alleged as one of the grounds for a new trial, in the motion filed therefor on behalf of Diaz, as follows:

> "Second: That the Court has ignored in its second finding of fact the proposition that the award mentioned therein involves property and improvements other than those actually involved in the trial of this cause, in this, to wit, that under the award of the Joint Com-

mission there were involved and there is involved in this action as evidenced by the decree of the Joint Commission the following claims, which have not been presented or finally adjudicated by the decree of this Court in the present cause, to wit, and reciting the wording of award No. 189, Docket No. 2565, made under date of January 24th, 1919, by the Joint Commission, acting and appointed pursuant to the treaty between the United States of America and the Republic of Panama wherein said award it is determined that of the property presently in dispute between the plaintiffs and defendant, the following parties are co-claimants and demandants.

"1. Guillermo Patterson, the claimant above named.

"2. The Aleman family, consisting of Josefina Vallarina de Aleman, Jose Maria Aleman, and Adolfo Aleman V., heirs of Adolfo Aleman, who are claimants in claim docket No. 3257, covering the property known as 'La Gloria.'

"3. The Arosemena family, consisting of Ernesto Arosemena, Carlos C. Arosemen, Florencia Arosemena, Dolores H. Arosemena, Hercilia D. Arosemena, Delia Arosemena de Uribe, who are claimants in claim docket No. 2757, covering the property known as 'San Jose.'

"4. Domingo Diaz A., in his own name and as attorney in fact for Mrs. Elicia A., vda. de Diaz, and Isabel Diaz de Jiminez, heirs of Domingo Diaz, claimant in claim docket No. 3260, covering the property known as 'Lo de Caceres.'

"And in addition to the foregoing, Award No. 188, made under date of January 16, 1919.

"And in this respect the finding of the Court in this cause is absolutely defective and awards to the party defendant the money and prop-

> erty of those who are not a party to this action, referring distinctly to the parties named in the above and foregoing awards of the Joint Commission" (Record, pp. 78, 79).

It was also among the assignments of error to the Circuit Court of Appeals on the appeal from the decree in the second hearing, as follows:

> *"Eleventh.* Because the Court erred in said decree wherein it is ordered that the full amount of $26,160.00, as set forth in the second finding of fact made by the Court, be paid to the said defendant, for the reason, that the awards mentioned in said finding of fact show on their face, there are other claimants to the said fund, who have never been made parties to this action, as will more fully appear from the copy of said awards hereto annexed, marked 'Exhibit C' as part of the Eleventh Assignment of Error" (Record, p. 120).

Nevertheless, the Court of Appeals affirmed the judgment on the second trial, in a short opinion, in which no reference is made to this most important point (see Record, p. 1120), and this is again assigned for error in this court, in Assignment No. 11 (Record, p. 1128), this assignment being in the words and figures of the assignment above quoted on the appeal to the Circuit Court.

And here we may be permitted to state, that the other claimants to this fund, namely, the families of Ernesto Arosemena and Adolfo Alemán have actually instituted proceedings in the District Court of the Canal Zone against Patterson, looking to a recovery of a portion of said fund, and said proceedings are still pending and undetermined. And we also call attention to the fact that the Minister of the Republic of Panama to the United States, the Hon. R. J. Alfaro, under date of No-

vember 8th, 1923, addressed to the Clerk of this Court the following communication upon the subject:

"LEGACION DE PANAMA,
Washington.

NOVIEMBRE 8 DE 1923.

THE CLERK OF THE
SUPREME COURT,
Washington, D. C.

DEAR SIR:—

In compliance with instructions cabled me by the Government of Panama, I beg to bring to your knowledge the fact that the families of Ernesto Arosemena and Adolfo Alemán have the intention of securing the services of a lawyer in Washington in order to intervene in the suit of Domingo Diaz *et al vs.* Guillermo Patterson. This suit affects the interests of said families who have not been heard, as they have not been parties to the suit.

The Government of Panama considers that it would be just to hear the Attorney for the above-named families before deciding the Diaz *vs.* Patterson case, and would like to see it happen, if it should be consistent with the laws of the United States.

I am, my dear Sir,

Yours very respectfully,

(Signed) R. J. ALFARO
Minister.

RJA:JB"

We will consider the two assignments of error above stated and herein relied upon in inverse order to that heretofore stated.

ARGUMENT.

The appellants, therefore, submit the following points and authorities:

I.

That the Court erred in adjudging and decreeing to defendant, Patterson, in a suit in equity between him and Diaz alone the entire fund of $26,160.00, deposited in court, without citing and hearing the claims of the other claimants to said fund, referred to in the award of the Joint Land Commission of January 24th, 1919. The Court did not have before it the necessary parties for this purpose.

We think there should be a reversal for this assignment alone. The first hearing in October, 1918, involved merely an equitable action as to the right and title to a certain tract of land and the protection of the interest therein of the parties thereto, namely, Diaz and Patterson, and did not have to do with any specific fund, because at that time the award of the Joint Land Commission heretofore referred to had not been made. But the second hearing involved not only the equitable action as to the land in dispute but the distribution of the equitable fund of $26,160 deposited in Court by the Joint Land Commission expressly for the purpose of being distributed among the parties claimants specifically designated in said award who might be found to be entitled to the same.

The court, we insist, could not dispose of that fund without having all the parties before it, and it had before it only two of the parties designated in the award as claimants of the fund, namely, Patterson and Diaz. Nor can it be successfully contended that because the trial court found the issues in favor of Patterson, Diaz was not prejudiced by the absence of the other parties and that he is, therefore, not in a position to take advantage of this manifest error. Because no one can say that upon a hearing, with all of the claimants before the court, additional proofs might not have been made that would enure to the detriment of Patterson and to the benefit of Diaz, as well as to the benefit of the other claimants. For instance, on the first hearing in the District Court, in 1918, the court found the location of Mata Redonda (which was one of the all-important questions in the case) in favor of Diaz, basing its finding largely on the conclusion that the title deeds of the Arosemena family to the adjoining estate of San Jose so proved. So, it is fair to presume that if the claimants to this adjoining estate, San Jose, had been made parties, on the second hearing, they might have materially strengthened the case of Diaz. At any rate, we say that a court of equity cannot dispose of an equitable fund, deposited in court to be distributed among certain designated claimants thereto, without having all of said claimants before it, and it was the duty of the court, on its own motion, to cite all the parties, when its attention was called to the matter. That it was called to the atention of the court is apparent from the prayer of the amended complaint and the motion for a new trial; as well as the finding and decree of the court and the award itself had been offered in evidence; and it was a matter of record in the case.

This view is abundantly supported by the authorities, and in fact, we have found no principle to the contrary either in the text writers or in reported cases.

In Story's "Equity Jurisprudence", 14th Ed., Vol. 3, Par. 1981, the principle is stated as follows:

> "¶ 1981. *The Want of Proper Parties to a Bill, as an Equitable Defence.*—The want of proper parties to a bill is also a good defence in equity, at least until the new parties are made, or a good reason shown why they are not made. At law a plea of the like nature is sometimes a good defence in bar, and is sometimes only a matter in abatement. But the plea in equity is of a far more extensive nature than at law; and it often applies where the objection would not at law have the slightest foundation. The direct and immediate parties having a legal interest are those only who can be required to be made parties in a suit at law. But Courts of Equity frequently require all persons who have remote and future interests, or equitable interests only, or who are directly affected by the decree, to be made parties; and they will not, if they are within the jurisdiction, and capable of being made parties, proceed to decide the cause without them. Hence it is that in Courts of Equity persons having very different and even opposite interests are often made parties defendant. It is the great object of Courts of Equity to put an end to litigation, and to settle if possible in a single suit, the rights of all parties interested or affected by the subject-matter in controversy. Hence the general rule in equity is, that all persons are to be made parties who are either legally or equitably interested in the subject-matter and result of the suit, however numerous they may be, if they are within the jurisdiction, and it is, in a general sense, practicable to do so."

Also in *Story's "Equity Pleading"*, 10th Ed., p. 74, Par. 72, we find the rule stated, as follows:

> "It is the constant aim of courts of equity to do complete justice, by deciding upon and settling the rights of all persons interested in the subject-matter of the suit, so that the performance of the decree of the court may be perfectly safe to those who are compelled to obey it, and also, that future litigation may be prevented. Hence, the common expression that courts of equity delight to do justice, and not by halves. And hence, also, it is a general rule in equity (subject to certain exceptions, which will hereafter be noticed), that all persons materially interested, either legally or beneficially, in the subject-matter of a suit, are to be made parties to it, either as plaintiffs or as defendants, however, numerous they may be, so that there may be a complete decree, which shall bind them all. By this means, the court is enabled to make a complete decree between the parties, to prevent future litigation by taking away the necessity of a multiplicity of suits, and to make it perfectly certain, that no injustice is done, either to the parties before it, or to others, who are interested in the subject-matter, by a decree, which might otherwise be grounded upon a partial view only of the real merits. When all the parties are before the court, the whole case may be seen; but it may not, where all the conflicting interests are not brought out upon the pleadings by the original parties thereto."

And further, in Paragraph 75, page 77, *Story's "Equity Pleadings"*, it is stated as follows:

> "¶ 75. If the proper parties are not made, the defendant may either demur to the bill, or take the objection by way of plea or answer, or (subject to the considerations above suggested), when the cause comes on to a hearing,

he may object, that the proper parties are wanting; or, the court itself may state the objection, and refuse to proceed to make a decree; or, if a decree is made, it may, for this very defect, be reversed on a rehearing, or on an appeal; or if it be not reversed, yet it will bind none but the parties to the suit, and those claiming under them. So, that all the evils of fruitless or inadequate litigation may sometimes be visited upon the successful party in the original suit, by leaving his title still open to future question and controversy."

The same principle is clearly announced in *Caldwell* v. *Taggart*, 4th Peters, p. 190, as follows:

"Where a bill was filed to compel the execution of securities for money loaned, which securities, it was alleged in the bill, were promised to be given upon particular real estate purchased by the money loaned, and the complainants had omitted to make the prior mortgagees of the premises on which the securities were required to be given, parties to the bill, the court said; it has been urged in reply to those grounds of reversal for want of parties or for want of due maturation for a final hearing, that nothing is ordered to be mortgaged or sold besides the interest of the party who is ordered to execute the mortgage, or whose interest is to be sold, whatever that may be. But this we conceive to be an insufficient answer. It is not enough that a court of equity causes nothing but the interest of the proper party to change owners. Its decree should terminate and not instigate litigation. Its sales should tempt men to sober investment, and not to wild speculation. Its process should act upon known and definite interests, and not upon such as admit of no medium of estimation. It has means of reducing every right to certainty and precision; and is therefore bound to employ these means in the exercise of its jurisdiction."

On pages 202, 203, the Court in its opinion states, as follows:

> "There is no want of learning in the books on this subject. The general rule is laid down thus; 'however numerous the persons interested in the subject of a suit, they must all be made parties plaintiffs or defendants, in order that a complete decree may be made; it being the constant aim of a court of equity to do complete justice by embracing the whole subject, deciding upon and settling the rights of all persons interested in the subject of a suit; to make the performance of the order perfectly safe to those who have to obey it, and to prevent future litigation.' And again, 'all persons are to be made parties who are legally or beneficially interested in the subject-matter and result of the suit;' extending in most cases to heirs at law, trustees, and executors."

On page 204, the Court uses this most significant language, which is especially applicable to the present case:

> . . . "There is no knowing what new aspect may be given to the cause, when all the necessary parties come in and answer."

Referring to the statement of the court in the above case to the effect that it is necessary in decrees in equity "to make the performance of the order perfectly safe to those who have to obey it", we may well ask, Could the officials of the District Court of the Canal Zone safely obey the order to pay over the entire trust fund of $26,160 to Patterson without difficulty and embarrassment, if not actual risk, in view of the fact that this fund was deposited for distribution among the claimants mentioned in the award of the Joint Land Commission who might establish their claims thereto, and, in view of the further fact that these other

claimants have actually instituted proceedings in the District Court of the Canal Zone seeking to recover portions of said fund?

In view of the foregoing we submit that the case should be reversed and remanded with directions to summon the other parties claimants to the fund as found by the Joint Land Commission and which was erroneously adjudged by the trial court exclusively to Patterson.

POINT II.

The Circuit Court erred in its reversal of the decree in the first hearing and in its affirmance of the decree in the second hearing by reason of an erroneous construction of Article 2526 of the Civil Code of Panama and of the Canal Zone with reference to the acquisitive prescription of real property by means of a recorded title.

Said Section 2626 is as follows:

> "The acquisitive prescription of real property or of real rights constituted therein, does not obtain against a recorded title, except by virtue of another recorded title, *nor shall it begin to run but from the date of the record of the second.*"

What the trial court on the first hearing decided in construing this Article was that the acquisitive prescription referred to therein always runs in favor of the last recorded title, that is, the one last on record will be considered for the purpose of

computing the Statute of Limitations on the trial of the case, and applying that rule to the facts of the case it held, starting with a registered title in favor of the predecessors of Diaz in 1832, that this *registered title* was defeated by one in favor of Patterson's predecessors in 1859 and another in favor of Patterson himself in 1891; and that these registered titles in favor of Patterson were in turn defeated by a still later registered title in favor of Diaz in 1895, which was the last on record when the suit was begun.

The Court held in substance, construing Article 2526 heretofore quoted, that the claim of Diaz was based on a recorded instrument of 1832 and that title by way of registered or constructive possession continued thereunder in favor of the predecessors of Diaz until the year 1859, when this was attacked and interrupted by a recorded instrument asserting a conflicting claim in favor of one of Patterson's predecessors, and that the recording of this latter instrument of 1859 would give title in ten years under Article 2529 of the Civil Code of Panama and the Canal Zone, which reads as follows:

> "Art. 2529. The time necessary for ordinary prescription is three years for movables, and ten years for real property. . . ."

and that Patterson's claim was strengthened by another registered title in his favor in 1891; but the Court also held that the registration of a subsequent deed in favor of the Diaz claim in 1895 interrupted the registered title and possession of Patterson under his deeds of 1859 and 1891, just as the Patterson deed of 1859 had interrupted the registered title and possession under the Diaz claim of 1832; and therefore inasmuch as suit was begun

by Diaz in 1917 and there being no further registration of title in opposition to Diaz from 1895 to 1917, that he, Diaz, was entitled under the ten years prescription of Article 2529 to a decree for the lands in dispute. The language of the trial court in this respect, part of which is set forth in the opinion of reversal of the Circuit Court, 262 Fed. 899, as follows:

> "This provision, taken together with section 2529 of the Civil Code which requires ten years for the acquisition of land by prescription, would have conferred on the defendant the ownership of the land in dispute by the year 1869. And this would be so because the prescription, as contemplated by the section just quoted, would begin to run not from 1832 (which is the date of the record of the first deed) but from the year 1859 (which is the date of the record of the second deed) inasmuch as the predecessors in interest of the plaintiffs had not during that period of prescription, interrupted the defendant's possession by means of another record.
>
> "There does not seem to be any doubt whatever that the defendant had acquired by 1869 by prescription a portion of the lands purchased in 1832 by the plaintiffs' predecessors in interest. But the question to decide is whether the title so acquired continues to the present time. We find that the last record effected by or on behalf of the defendant with reference to the lands in dispute took place in 1891. After that date neither the said defendant nor any one on his behalf has made any inscription on the Public Land Registry that would affect the recorded possession of the lands claimed. On the other hand we find that the plaintiff, by their predecessors in title reasserted their recorded possession of 1832, which they had lost by prescription, by means of the registration of the public sale of the estate of Lo de

Caceres that took place in 1895. In this public sale the old line of Mocambo to the Mata Redonda is again restated. Hence the conflict between the two estates reappears from the said year of 1895. Furthermore, after that year, several sales of undivided interests in the estate of Lo de Caceres took place and hence the corresponding inscriptions were affected, all of which show that public and open assertions of ownership, in the manner provided by law, were made by said plaintiffs or their predecessors in interest, in opposition to any and all claims of ownership of the defendant.

"The Court, therefore, finds that, applying section 2526 above quoted, prescription began to run in 1895 as against the recorded possession of the defendant; that the defendant has not interrupted that prescription inasmuch as he has no recorded title subsequent to 1891, and that as more than ten years have elapsed since 1895, the plaintiffs have reacquired the lands in dispute.

"The plaintiffs are, therefore, entitled to a decree in accordance with the above findings."

Therefore it appears that in the opinion on the first hearing it was held that the registered possession of Diaz under the Paredes deed of 1832, was interrupted and rendered ineffective by the opposing deed of 1859, some twenty-seven years thereafter, under which Patterson claims. In other words, the Court held that the deed by Patterson's predecessors of 1859, interrupted the registered possession arising from the deed of 1832 under which Diaz claims, and in so doing gave to Article 2526, exactly the same interpretation that was given to it in holding that the deed of 1895, under which Diaz claims uninterrupted the registered possession of the prior deeds, under which Patterson claims.

If, therefore, the court was wrong in holding the latter, that is, that the deed of 1895 interrupted the registered possession under the deed of 1891, then by the same token it was wrong in holding that the deed of 1859, under which Patterson claimed, interrupted the registered possession under the prior deed of 1832, under which Diaz claims, and the result would have been the same, namely, in favor of Diaz.

To put it otherwise, the Circuit Court of Appeals, in reversing the first case held that the mere recording of a deed by an adverse claimant does not have the effect under Article 2526 of interrupting or rendering ineffective the rights acquired under a previously recorded deed. In so doing we think the Circuit Court clearly overlooked that part of said Article which it failed to quote, and which says: "nor shall it (prescription) begin to run but from the date of the record of the second." But going back and applying this holding of the Circuit Court, the trial court would necessarily have decided that the deed of Patterson's predecessor of 1859, did not interrupt the rights of Diaz under his deed of 1832, in which case the result would have been, as stated, exactly the same.

The Circuit Court in its opinion said:

> "The provision (Art. 2526) cannot be given the effect of requiring a possessor to have a title recorded to enable him to acquire ownership by extraordinary prescription. To do so would be in the teeth of the following provision of the above set out Article 2531."
>
> "For the extraordinary prescription no title whatsoever is necessary."

The time necessary to acquire by extraordinary prescription is fixed by Article 2532 at thirty years.

But we say that this Article 2531 must be read in connection with Article 2526; and the only way for the two to stand together, without the one being directly in conflict with the other, and to give effect to both, is by adopting the construction that no title is necessary for extraordinary prescription *provided it is not attempted to be asserted against one who has a Recorded Title;* otherwise Article 2526 is nullified. And we respectfully insist that if it be true that the law is otherwise in this Country as stated by the Circuit Court, nevertheless it is the law of the Republic of Panama and consequently of the Canal Zone; and it has been so declared by the Circuit and the Supreme Courts of Panama.

And here let it be remembered that all of the registered instruments of title herein referred to were registered not in the Canal Zone but in the then Department of Panama, at that time a part of the Republic of Colombia, and some time before the revolution and the establishment of the Republic of Panama. Furthermore, let it be remembered that this is a suit between two Panamans and not between American citizens and that in taking the steps they did to protect their interests they naturally relied and had a right to rely upon the laws of the country as understood and interpreted in that respect.

This is of much importance in view of the fact that the Circuit Court and the Supreme Court of the Republic of Panama have construed the law as we contend for herein, and in a like suit between the same parties hereto, Diaz and Patterson, involving exactly the same issues of law and fact as to a portion of the land here in dispute situated within the Republic of Panama. These decisions will be found in full at pages 937 to 955 of the Record. The case referred to was decided by the

Circuit Court of Panama on January 23rd, 1919, in favor of Diaz and affirmed by the Supreme Court of Panama on the 19th day of May, 1920. As stated, the law with reference to said Article 2526 was therein construed exactly as we contend for herein. From these opinions we quote the following:

> "Said rights of prescription were or became good by registry of the title in the registry then existing, up to the year one thousand eight hundred and ninety-five, at which time the heirs of Ramon Garcia de Paredes sold at public auction the lands of Lo de Caceres under the boundaries given in the deed covering purchase sale executed by Pedro Miro in favor of Jose Garcia de Paredes, as the entry in the Registry of the title acquired at public auction interrupted the prescription of the titles of Mata Redonda in order to give said prescriptions in favor of the heirs of Ramon Garcia de Paredes, in accordance with the provisions of Article 2525 of the Colombian Civil Code, which read as follows:
>
> > "'The acquisitive prescription of real property or of real rights constituted therein does not obtain against a recorded title, except by virtue of another recorded title, nor shall it begin to run but from the date of the record of the second.'"
>
> "The title of Mata Redonda, which transmitted the ownership to Mr. Patterson, was recorded in the year one thousand eight hundred and ninety-one; and the title of Mr. Dias in the year one thousand eight hundred and ninety-five; both having reference to the same portion of lands, or, in other words, the lands comprised between the Mata Redonda and Mocambo in a straight line, and from Mata Redonda to the hill of the Algarrobo, and from this hill to Mocambo; the recording of the last title in the Registry interrupts the prescription of the first to transmit it to the second, and

as in this instance there has been no posterior interruption whatever, inasmuch as it was again recorded in the Public Registry created by Act 13 of 1913, it is unquestionable that in his favor there exist all the rights which the prescription gives as an acquisitive means of ownership; if said prescription is added to the rights accrued by virtue of the title of purchase sale of Jose Garcia de Paredes, the legal conclusion is reached that the heirs of Gen. Domingo Diaz hold the true ownership of the lands in dispute, inasmuch as the posterior reregistration of the title of Guillermo Patterson lacks legal value in the presence of Article 15 of Act 10 of 1913, according to which, registration of a title of ownership to a piece of property being made, no other title in conflict therewith may be recorded; and if said registration should be made, a marginal note shall be entered calling attention to the error for the cancellation of said last registration."

The Supreme Court of the Republic of Panama in affirming this decision of the Circuit Court, states as follows:

. . . "So, then, in the year one thousand eight hundred and ninety-five, some years after the acquisition by Patterson of the Mata Redonda, and the recording of the title of Patterson in the old Property Registry, there was recorded in favor of Catalina Lewis de Garcia de Paredes the proceedings by which said lady sold at public auction the property of Lo de Caceres under boundaries which start from La Mata Redonda (the round bush), in a straight line to the limits of Mocambo. This registration was in conflict with the registration theretofore made of the title of Patterson of one thousand eight hundred and ninety-one, registration of which, although conflicting and without the last title proceeding from the proprietor, according to the former title, was at

that time permitted by law. Wherefore, dating from one thousand eight hundred and ninety-five, Catalina Lewis de Garcia de Paredes and those holding under her (derivatives) commenced to prescribe ordinarily as against Patterson the portion of land englobed in favor of the property Lo de Caceres by the boundary which in one thousand eight hundred and thirty-two Pedro Miro had drawn, and by which the public sale was made in one thousand eight hundred and ninety-five. And this being so, the plaintiffs, Diaz Arosemena, have today to their advantage, and not Patterson, the plea of ordinary prescription alleged by both parties; because it is evident that no one prescribes against one who has followed said person in the registration of a title executed under legal formalities, but that, on the contrary, it is the owner of the last title recorded who can acquire by ordinary prescription that which was theretofore recorded in favor of a third party from whom he does not derive the ownership title (Art. 2525 of the old Civil Code). This happens because prescription is one of the means of acquiring things which have not a known owner, and also the means of extinguishing the ownership and obligations belonging to another, to such an extent that the true owner loses by prescription his right, acquiring the thing the person who in good faith acquires a title in due form and records it, and so if in one thousand eight hundred and thirty-two Pedro Miro separated from Mata Redonda, belonging to his wife, the piece of land now in dispute, in order to include it in the property of Lo de Caceres, belonging to him, with the registration of the title of that date in favor of Ramon Garcia de Paredes, the latter began to prescribe as against the wife of Miro the ownership of the piece of land segregated, unless it be true that there did take place the alleged lawsuit between Garcia de Paredes and Mrs. Josefa Miro, widow of Gomes,

and that said lawsuit had been brought in time to interrupt the prescription period; if in one thousand eight hundred and ninety-one Patterson acquired and recorded his title by boundaries which took from the property of Lo de Caceres a part of that which Garcia de Paredes had acquired from Miro, Patterson would have prescribed against Garcia de Paredes if his title had continued without contradiction during the legal period for the purpose of acquiring by ordinary prescription, and, lastly, there having been recorded in one thousand eight hundred and ninety-five the public sale proceedings in favor of Catalina Lewis de Garcia de Paredes, which contradicts the title of Patterson, and restores the boundaries given by Miro in one thousand eight hundred and thirty-two. With this new registration there was initiated in favor of said lady and against Patterson the acquisitive prescription of the globe of land which, according to the exempted crown lands, formed part of Pena Hueca and not of Lo de Caceres. And since, dating from one thousand eight hundred and ninety-five up to the establishment in one thousand nine hundred and thirteen of the new Public Registry, no title has been recorded contradicting the title now figuring by successive traditions of ownership in favor of plaintiffs Diaz Arosemena, it is plain that acquisitive prescription is in favor of these plaintiffs" (Record, pp. 937-955).

Although the decisions of the Panama courts above quoted may not be strictly speaking *res judicata* as to the present case because the subject-matter was not exactly the same, the property in dispute therein being, as stated, an adjoining portion thereof in the Republic of Panama, we insist that these decisions should have great weight in the determination of the case. But so far from

looking to such final judgment for aid as to the facts or the law, as should have been done in order to carry out the treaty obligations of this country with Panama, the trial court declared with reference thereto:

> "We are trying the case here and not under the laws of Panama" (Record, p. 165).

We contend that the trial court and the Circuit Court of Appeals should have given to the construction of Article 2526 of the Civil Code, the construction given thereto by the Supreme Court of Panama, in an action between the same parties, involving exactly the same questions of law and fact, because the laws of Panama are the laws of the Canal Zone and the construction given thereto should be followed in the United States courts. This principle was held by this Court in the case of *Panama Railroad* v. *Bosse*, 249 U. S. 44, wherein Mr. Justice Holmes states as follows:

> "By the Act of Congress of April 28, 1904, Chap. 1758, Sec. 2, 33 Stat. at L. 429, temporary powers of government over the Canal Zone were vested in such persons and were to be executed in such manner as the President should direct. An executive order of the President addressed to the Secretary of War on March 8, 1904, directed that the power of the Isthmian Commission should be exercised under the Secretary's direction. The order contained this passage: 'The laws of the land, with which the inhabitants are familiar, and which were in force on February 26th, 1904, will continue in force in the Canal Zone until altered or annulled by the said Commission'; with power to the Commission to legislate, subject to approval by the Secretary. This was construed to keep in force the Civil Code of the Republic of Panama, which was translated

into English and published (44) by the Isthmian Canal Commission in 1905. By the Act of Congress of August 24, 1912, Chap. 390, Sec. 2, 37 Stat. at L. 560, Comp. Stat. 1916, Sec. 10,038, 'all laws, orders, regulations and ordinances adopted and promulgated in the Canal Zone by order of the President for the government and sanitation of the Canal Zone and the construction of the Panama Canal are hereby ratified and confirmed as valid and binding until Congress shall otherwise provide'. On these facts it is argued that the defendant's liability is governed by the Civil Code alone, as it would be construed in countries where the civil law prevails, and that, so construed, the Code does not sanction the application of the rule *respondeat superior* to the present case."

Also in *Panama Railroad* v. *Toppin*, 252 U. S. 331, wherein Mr. Justice Brandeis states, as follows:

"The law of Panama is pleaded by both parties and evidence thereon was introduced by both; but we are not limited to this evidence, as they agree that we may take judicial notice of the law of Panama existing February 26, 1904, when the Canal Treaty was proclaimed, and that, in the absence of evidence to the contrary, the law then prevailing there will be presumed to have continued in force."

Furthermore, the same principle has been repeatedly held by the Supreme Court, in cases which involve the construction of the laws of Porto Rico. See *Romeu* v. *Todd*, 206 U. S. 357; also *Nadal* v. *May*, 233 U. S. 446, where the Court states as follows:

"Decisions of the Supreme Court of Porto Rico that the Civil Code of March 1st, 1902, went into effect on July 1, 1902, would be followed by the Federal Supreme Court as having

> become a rule of property, even if the latter court did not think, as it does, that probably the certificates of the Secretary of Porto Rico express the Legislative will. 'It is impossible to know how many or how important transactions may have taken place on the faith of these repeated solemn assurances, and apart from the general unwillingness of this court to over-rule the local tribunals upon matters of purely local concern, it is not too much to say that the decisions have become a rule of property, even if we did not think, as we do, that probably the Secretary's certificate expressed the Legislative will."

In fact, it has often been held that the Federal Courts will give to contracts and rules of property the construction that has been put upon state laws in this respect by the courts of those states. All the more should it give to the construction of a Panama statute that which has been given to it by the Supreme Court of that Republic, especially in dealing with real property claimed exclusively by two Panaman subjects such as Dias and Patterson and not citizens of the United States, and who undoubtedly had a right to rely as to their conduct upon the laws prevailing as construed by their own courts.

Under the authorities of these decisions this case should be reversed, because here, as in the Porto Rico cases, it may be said that the construction of Section 2526 of the Civil Code constituted a rule of property upon which Dias relied, and upon which his predecessors relied, when the deed of 1895 was recorded; and under these decisions Dias and his predecessors had the right to assume, according to the law as interpreted by their courts, that the steps they took stopped the running of the statute of limitations under the deed of Patterson of 1891.

To hold otherwise would be to interfere with vested rights of property according to the interpretation of the laws of that country. For, it must be remembered, that although Mr. Justice Holmes stated in his opinion in the *Bosse* case that the Canal Zone is peopled entirely by Americans, Patterson and Diaz are both Panamenas, and that their property in the Canal Zone had not been taken over by the United States, when they recorded their deeds as herein stated. And even if in cases between Americans, the laws of Panama should be given a construction as far as possible in accordance with our understanding thereof; still in cases between Panamenans where their property interests are concerned, a construction of the laws should be given in accordance with the interpretation placed thereon by their own courts, because such is the rule under which they acted and upon which they had a right to rely.

In conclusion we say it is manifest that the Court below decided the case on an erroneous construction of Article 2526 of the Civil Code; that out of deference to the decisions of the courts of Panama construing this same Article, and in justice to Diaz who relied upon the laws as understood in his country as a rule of property, the case should be reversed. For the reasons heretofore stated, it is therefore respectfully submitted:

First, the case should be reversed and the decree should be in favor of Diaz by reason of the law of acquisitive prescription arising from the priority and legal effect of the registration of his titles pursuant to Sec. 2526 of the Civil Code of Panama and the Canal Zone. Second, if not so ordered, then the case should be remanded with instructions to summon

and make parties thereto the other claimants to the trust fund of $26,160 now deposited with the District Court of the Canal Zone pursuant to the award of the Joint Land Commission on January 24th, 1919.

Respectfully submitted,

WILLIAM H. JACKSON,
Attorney for Appellants.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1923.

No. 113

DOMINGO DIAZ, ET ALS.,

Appellants,

versus

GUILLERMO PATTERSON,

Appellee.

Appeal from the United States Circuit Court of Appeals for the Fifth Circuit.

SUPPLEMENTAL BRIEF IN BEHALF OF GUILLERMO PATTERSON, DEFENDANT AND APPELLEE.

There is very little that can be added to our brief written on the motion to dismiss or affirm without going into a discussion of the title and possession of the property in question contained in the 1152 pages of the transcript.

Inasmuch as this case was twice decided by the U. S. Circuit Court of Appeal in the case of *Patterson v. Diaz, 262-F, 903, 904,* and *Patterson and Diaz v. Patterson, 281-F, 394,* we are very loath to discuss at length the merits of the case.

The titles of the property in defendant and his authors date back to A. D. 1695. Rec., 68, 69.

When it was first appealed to the U. S. Court of Appeals, the opinion of the trial Judge, Wm. H. Jackson, showed that if the defendants had not uninterrupted possession of the property, that at least he had acquired by prescription in 1869 the land purchased by defendant's authors in 1832.

He said:

> "There does not seem to be any doubt whatever that defendant had acquired by 1869, by prescription, a portion of the lands purchased in 1832 by the plaintiffs' predecessors in interest. But the question to decide is whether the title so acquired continues to the present time. We find that the last record effected by, or on behalf of the defendant, with reference to the lands in dispute took place in 1891. After that date neither the said defendant, nor any one in his behalf, has made any inscription on the Public Land Registry that would affect the recorded possession of the lands claimed. On the other hand, we find that the plaintiff, by their predecessors in title, reasserted their recorded possession of 1832, which they had lost by prescription, by means of the registration

of the public sale of the estate of Lo de Caceres that took place in 1895. In this public sale, the old line of Mocambo to the Mata Redonda is again restated. Hence, the conflict between the two estates reappears from the said year of 1895. Furthermore, after that year several sales of undivided interests in the estate of Lo de Caceres took place and, hence, the corresponding inscriptions were affected, all of which show that public and open assertions of ownership, in the manner provided by law, were made by said plaintiffs or their predecessors in interest, in opposition to any and all claims of ownership of the defendant.

"The Court, therefore, finds that, applying Section 2526, above quoted, prescription begins to run in 1895, as against the recorded possession of the defendant; that the defendant has not interrupted that prescription, inasmuch as he has no recorded title subsequent to 1891, and that as more than ten years have elapsed since 1895, the plaintiffs have reacquired the lands in dispute." *(Patterson v. Diaz, 262 Fed., 900-901.)*

This opinion of Judge Jackson is missing in the present transcript, though it covered about twelve pages of the transcript upon the first appeal.

The Court of Appeals said regarding that opinion:

"It appears from the record that the decree appealed from was based upon the conclusion that the plaintiffs had acquired by prescription the ownership of the land sued for without that land having been possessed by them or by any one through whom they claimed, and through their petition did not assert the claim that they were by prescription

entitled to that land. The Court erred in so concluding."

Patterson v. Diaz, 262-F, 903.

The case was remanded in order to have the ownership and possession, with proper boundaries fixed, in accordance with the decree.

On the second hearing before the trial Court a great deal of new evidence was taken, and the trial Judge found the facts, after going over all the evidence, to be as shown in the transcript in this case from pages 61 to and including part of page 73.

Among the facts found, we will say here, that the trial Judge found the ultimate facts to be as follows:

"As a final and ultimate fact the Court finds that plaintiffs have established no title to, nor have plaintiffs ever been in possession of any of the lands in controversy in this action, but that the defendant and his predecessors in interest have established good, valid and recorded title to all of said property since the year 1695, and have been in actual, notorious, open, adverse and uninterrupted possession of all of the lands in controversy since the year 1790, until the present time.

"The Court also finds, as a matter of fact, that for more than ten years from the date of the deed of 1895, whereby the heirs of Ramon G. de Paredes attempted to convey the lands in controversy, and recorded a title thereto adverse to that of defendant, plaintiffs instituted no action, and made no attempt to eject defendant from the lands then in

possession of defendant, and claimed by plaintiffs under said deed; nor was any such action brought by plaintiffs until the year 1917." (Pp., 72, 73.)

And as a conclusion of law the Court found:

"That defendant has a good and sufficient recorded title to all of the property claimed by him in his answer to the amended complaint; that is to say:

"To that property starting from the Mata Redonda, or Pena Hueca, above described and located, to a point on the Canal Zone boundary line between monuments 86 and 87; thence, in a northwesterly direction to a spot where the Canal Zone boundary line crosses the river Cardenas at Monument 80; thence in a southerly direction, following the course down stream on the river Cardenas to a place where the Palangana river empties into it, then following the course of the Rio Palengana upstream until its junction with the Platanar Creek or river; then following the course of the Platanar, upstream, to its head waters already indicated and located; and from thence in a straight line to the Pena Hueca of Mata Redonda, the point of starting.

"That defendant has a good and perfect title by prescription to all of the following described lands; that is to say:

"From the spot called Pena Hueca, Mata Redonda, following the Old Porto Bello trail, or fence line of the defendant, as indicated on plaintiffs' exhibit 2 to Canal Zone boundary Monument 88; and from thence, following the said Canal Zone boundary to the Cardenas river at Canal Zone boundary Monument 80; then following the Car-

denas river down stream to its junction with the Palangana; thence following the Palangana river upstream to its junction with the Rio Platanar; from thence following the Rio Platana to its head waters; and from thence a straight line to the Pena Hueca, or Mata Redonda, the point of starting.

"That all of plaintiffs' caim is *res adjudicata*, having been fully decided in favor of defendant and against paintiffs by a Court of the Kingdom of Spain in the year 1790, in a suit between predecessors in interest of plaintiffs and defendant, which said judgment was confirmed by a Court of the Republic of Colombia of June 14, 1841, in a litigation between the predecessors at interest of plaintiffs and defendant, involving the ownership, title and right of possession of all the lands now in dispute; said judgment having never been reversed or modified or appealed, and being in full force and effect binding upon the parties hereto, and binding upon this Court in an adjudication of this cause.

"That by reason of failing to bring any action against defendant for a period of more than ten years from date of their deed of 1895 against defendant, who was in possession of the land in controversy under a recorded title, plaintiffs have lost by limitation any rights to bring an action against defendant for possession of any of the lands in controversy.

"That defendant has a good right and title, and is entitled to immediate possession of all the money and funds in this Court, together with accrued interest thereon by the United States of America,

through an award of the joint commission to the owner or owners of the lands in controversy." (P., 73.)

On the second appeal the Court said:

"The case is fully stated in 262 Fed., 890, upon a former appeal. There is a decree in favor of the original plaintiffs, and present appellants was reversed, and the case remanded for findings upon the evidence as to possession of the land in dispute.

"Upon the evidence, then, in the record, and upon additional evidence taken since, the trial Court has found that the original defendant, Patterson, appellee here, has been in actual, adverse possession for more than 30 years, and, further, that appellants have never been in possession of the lands in dispute. The Court also finds as a fact that appellee established record title.

"Appellants do not assign error upon the finding that record title is in appellee, nor is it seriously contended that there was not testimony to support the other findings of fact. Some contention is made as to the credibility of witnesses for appellants, but the District Judge heard the witnesses testify, and also viewed the lands. There is abundant evidence to support the finding of fact as to appellee's possession, but no useful purpose would be served by setting it forth. The principal argument for reversal of the decree below is upon the question of law decided upon the former appeal. It is again argued that the mere recording of a deed by one claimant interrupts the actual possession of an adverse claimant under a previously recorded title. We are convinced that this is not the law, and ad-

here to our former opinion. The decree is affirmed."

Patterson v. Diaz, 281 Fed., 394.

THE MERITS.

Your Honors will notice that the twenty-fourth finding of fact is not excepted to by appellant. That finding reads as follows:

> "24. The Court finds, as a matter of fact, that defendant has established recorded title to all of the lands in controversy from the present time by an unbroken chain of title to the original grant from the Spanish crown made to Mrs. Tomasa Ramos, defendant's predecessor in interest, in the year 1695."

This is noticed by the learned Judge of the U. S. Circuit Court of Appeals when he says:

> "The Court finds, as a fact, that the appellee established a record title. Appellants do not assign error upon the finding that record title is in appellee, nor is it seriously contended there was no testimony to support the other findings of of fact."
>
> *Diaz, et al. v. Patterson, 281 Fed., 394.*

Two Courts have reached the same conclusion on a question of fact, and the finding will not be disturbed.

Duirning v. Carlisle Packing Co., 226 U. S., 102.
Texas & Pacific Co. v. Prater, 229 U. S., 177.
Stuart v. Hayden, 169 U. S., 1.
Bodkin v. Edwards, 255 U. S., 223.

The Supreme Court of Panama, in an action of trespass as to **part of the identical tract of land in question,** decided that the possession of Mata Rodonda ranch, situated out of the Canal Zone, but in the Republic of Panama, in a trespass suit brought by Diaz, up to the Porto Bello road has been in Mr. Patterson for a long period of time.

The Panama Court said:

> "By the testimony of witnesses, which is of record, and presented as proofs regarding the damages, it appears on its face that the fence and other constructions about which the complainants complain, **have been made many years ago, which goes to establish the incompetency of the proposed action."** (Record, 748.)

In this case the judgment of the lower Court was reversed, and naturally so, since the so-called fence or other constructions seem to have been constructed as far back as 1854.

The Court will bear in mind, however, that the decision of the Supreme Court of Panama was based upon the same laws, the same Code of Procedure and Civil Code as are the laws of the Canal Zone, the decree of the Supreme Court relating, however, only to land outside of the Canal Zone. However, if the Portobello road marked the boundary between the two pantations outside of the Canal Zone and in the Republic of Panama, it would not be stretching the imagination too far to conclude that the same boundary in the Canal Zone would have been recognized by that Court.

The possession of all of Mata Redonda west of Portobello road has never been disputed by anybody, as we have stated before. Even Diaz, in his statement as to what grounds were in dispute, attempts to draw a straight line "from the lower Mata Redonda, etc." (Rec., 771.)

On page 772 he says:

> "That the Mata Redonda indicated was the one at the letter "Y" on defendant's Exhibit "X," and that by that designation that he had been very generous to Mr. Patterson."

When a man goes to outline a disputed claim to be settled, he generally claims all he can get, and Mr. Diaz knew, and knows now, and every other man in that section has known, that the Mata Redonda referred to was the one near the Portobello road.

Upon the subject of possession we have only one other thing to say, and that is that possession is proved by all the evidence in the record of the tenants who are paying rent to Mr. Patterson.

Again, in 1890, plaintiff brought suit for possession of part of Mata Redonda, and judgment was rendered by the Court of the Republic of Panama in favor of Mr. Patterson. (Record, 779, 780.)

So conclusive is the proof of the title of defendant, which runs back, without a flaw, to 1695, and his right of ownership by ordinary prescription (10 years) by virtue of title

translative of property in 1876 and in 1884 and in 1887 and in 1891; and his right of ownership by extraordinary prescription by virtue of open and adverse possession, having the possession under fence for over thirty years.

Without delving into this enormous record, if the Court should attach any weight to the testimony of the United States officer, Captain Malmsberry, who surveyed this land for the government to expropriate, it can read the following extracts from his testimony:

> "* * * that their names were placed on the map because the government had to pay all of them, as the department of law settled with all of them for their improvements; that he had talked with the cultivators who were on the property; that none of these people had any question as to who was the owner, as they all paid rent to Mr. Patterson, and always had to pay rent to him; that a good many of these people who paid rent to Mr. Patterson were on that portion of the estate of Mata Redonda lying north of a line drawn from what Mr. Diaz claimed to be the Mata Redonda, or the point marked "B" on the map to Mocambo, and a few were below the line." * * * (Rec., 666.)
>
> "that all the people marked on the map who were within the boundaries of the entire tract shown on the map marked "X" to be the Mata Redonda, paid rent to Mr. Patterson; that if anyone living on that property paid rent to anyone other than Mr. Patterson they were unable to locate them; that they located all that had improve-

ments on this property, though they might have overlooked one or two small ones; that some of the properties these people had were ancient; some of them were in the place marked "B" to "Y," where the land had been cultivated so much that it had simply become sterile and they had quit cultivating, particularly back of the old church (indicating the land in the vicinity of the point marked "B" on the map); that he observed houses or fincas of people who lived north of the line from "Y" to Mocambo; that the places around that old church seemed to be ancient and had been cultivated so much for years, that they had lost their fertility; that he did not know how long the people had been there; that the fence marked "Y" to "Z", when he was there in 1913, was down in some places, but the general line of it could be easily followed out; it was an old fence, I don't know how old, but it was partly a growing fence and partly posts and wires; that it impressed him as being a boundary line fence; that there is an old path that used to run along the fence, and that old trail could still be picked out; that it was an actual boundary line, whether it was legally correct or not he did not know; that that was the boundary line between Lo de Caceres and Mata Redonda." * * * (Rec. 667.)

We now come to what we think would, under ordinary circumstances, induce any Court to affirm the judgment in this case on the merits without reading any testimony, but on the statement and opinion of the first trial Judge who was reversed by the Court of Appeals in *262 Fed., 903, 904.*

One of the first glaring errors which the trial Judge fell into was the location, or rather **mislocation**, of the Mata Redonda. The testimony of witnesses conclusively shows that the only Mata Redonda is the one which forms the corner of the plantation at the Portobello road. This Mata Redonda is east of the Rio Hondo.

The first trial Judge of the lower Court, who was reversed, says that the Mata Redonda or Pena Hueca referred to in the San Jose deeds, is situated close to the ruins of the old chapel of Mata Redonda, a considerable distance to the west of the Rio Hondo. The Court says:

> "The title deed of the adjoining estate of San Jose seems to show conclusively that the said spot is located as herein indicated, and not on the Panama side of the Rio Hondo; that is, the eastern side. The title of San Jose of 1826 described a certain pass or crossing of the said river, and in doing so, states that it is 'the place used for crossing the Rio Hondo in going from this city (Panama City) to Mata Redonda.' In other words, in order to locate Mata Redonda, if we are guided by the description just quoted, it is necessary to go to the western side of the Rio Hondo."

This statement of the Judge who first tried the case is absolutely misleading, because the learned Judge does not quote all of the paragraph. The title says, speaking of the boundary:

> "Parallel to the royal crossing of the said river Hondo, at the place where it is crossed, in order to go from this city to Mata Redonda, and continu-

> ing in a straight line to the said crossing, they (the boundaries) go on later along the Royal road of Mata Redonda, already mentioned, to a creek, etc."

But the entire statement of this Judge and his opinion have, for some reason, been omitted from the record in this appeal.

The words "Mata Redonda" naturally refer, in both instances, to the estate of Mata Redonda, and the crossing of the Royal Road is where the river near is crossed in order to go to the house, which existed in the estate in 1826.

Again, the Judge referred to the title deed of 1846 and said that it is admitted by that title deed, introduced in evidence by the defendant, that the Mata Redonda is on the other side, or western side, of the Rio Hondo.

The San Jose title of 1846 does not bear out that Judge in this statement. It contains the following decisive statement, omitted from the paragraph partially quoted by his Honor:

> "Which point (the headwaters of the River Hondo) is on the right-hand side coming along the road, leaving the estate of Mata Redonda to meet the highway from the Portobello road to this city, which passes between the estates of the Mata Redonda and Lo de Caceres." (P. 1111.)

The Court missed the significance of the statement that the Portobello road passed between the estates of the Mata

Redonda and Lo de Caceres, as the corner landmark between the estates of Mata Redonda and Lo de Caceres was the Mata Redonda or Pena Hueca; naturally, this spot must be on or near the Portobello road, and to be in that point had to be east of the Rio Hondo.

The Court also missed the significance of certain correspondence in the record.

For instance, Mr. Valentine E. Bruno, writing as the lawyer for Domingo Diaz and Alleman, addressed Mr. Patterson regarding some controversy concerning the opening of a trail which he thought impinged upon the La Gloria property. He said:

> "You are doubtless laboring under the mistaken notion that the wire fencing along which the trail is cut forms the northern boundary of 'La Gloria.' For your information and guidance, however, I have to advise you that this is not so; the northern boundary of this property (speaking of La Gloria) is more than one hundred meters further north, that is to say, along the 'Paso Real' and up to the point where it crosses the 'Rio Hondo' in accordance with the titles of 'Lo de Caceres.'" (Record, p. 640.)

If your Honors will look at the map you will see that La Gloria never extended to the west of the Rio Hondo and, therefore, that the imaginary location of a Mata Redonda two miles west of La Gloria and two miles west of the Rio Hondo is an absurdity on its face.

We wish to go just a tiny bit further in reference to the correspondence in this case.

In 1913, the learned counsel who now represents Mr. Domingo Diaz, then acting as the attorney for Mr. Patterson, wrote a letter to Mr. Bruno, in reply to the letter above referred to, and said:

> "With reference to the boundary line between Mata Redonda and La Gloria, I am instructed to state that the southern boundary of the former is about one hundred feet south of the wire fence that was put there about twenty years ago by Mr. Patterson and not by Mr. Alleman, as you state—*i. e.*, a straight line from the Mata Redonda to the headwaters of the Platanar Creek, crossing Rio Hondo somewhere near the Paso Real." (Record, 642.)

If, as contended, the division line between La Gloria and Mata Redonda plantations ran from the Mata Redonda in a straight line to the headwaters of the Platanar Creek, crossing the Rio Hondo somewhere near the Paso Real, this makes the location of the imaginary Mata Redonda, west of the "Rio Hondo," so absurd and ridiculous that we do not think any Court will consider it.

While we cannot agree with any of the statements of fact in the opinion of the first trial Judge except, perhaps, his statement, the defendants have been in possession of the property in question in this case since 1832, it is a question of law, which will astound the Court and assure the reversal of his judgment, viz., the interpretation by the

learned Judge, who first tried this case, of Article 2526 of the Civil Code of the Canal Zone, which we have just cited to your Honors in this brief.

The Court said that this article, taken in conjunction with Art. 2529 of the Civil Code, which requires "ten years for acquisition of land by prescription," would have conferred on the defendant ownership of the land in dispute by the year 1869. And this would be so because the prescription, as contemplated by the section just quoted, would begin to run, not from 1832 (which would be the date of the record of the first deed, if it had been recorded), but from the year 1859 (which is the date of the record of the second deed), inasmuch as the predecessors in interest of the plaintiff had not, during that period of prescription, interrupted the defendant's possession by means of another record.

The first trial Judge said:

> "There does not seem to be any doubt whatever that the defendant had acquired by 1869, by prescription, a portion of the lands purchased in 1832 by the plaintiff's predecessors in interest. But the question to decide is whether the title so acquired continues to the present time."
>
> *Patterson v. Diaz, 262 Fed., 900.*

Then he said further (and here we come to the most remarkable statement that we have ever seen made by a Court of Justice):

> "We find that the last record effected by or on behalf of the defendant with reference to the

lands in dispute took place in 1891. After that date neither the defendant nor any one on his behalf has made any inscription on the Public Land Registry that would effect the recorded possession of the lands claimed. On the other hand, we find that the plaintiffs, by their predecessors in title, reasserted their recorded possession of 1832, **WHICH THEY HAD LOST BY PRESCRIPTION** by the means of registration of the public sale of the estate of Lo de Caceres, that took place in 1895."

Patterson v. Díaz, 262 Fed., 901.

In other words, Mr. Patterson had a perfect title through his deeds running from 1695 to the present day.

Mr. Patterson had a perfect title running from the purchase of Zayas, Saintbois Duque and his own purchases, all of which three titles are dated between 1876 and 1891, all of which were translative of property and gave him the ordinary prescription of ten years.

Mr. Patterson had a perfect title through his adverse possession, whether in good faith or bad faith, from 1832, but all of this was lost, and his recorded possession canceled, because another person, without taking or interfering with the possession of the property, had registered an adverse title in the office where the registry of conveyances should be made. The lower Court, in the first trial, overlooked *Article 789, C. C. of the Canal Zone*, which says:

"In order that registered possession may cease, it is necessary that the record be canceled, etc."

Under Judge Jackson's brilliant decision, anyone taking a fancy to a piece of property might make registry of a fictitious purchase of it in the Conveyance Office from somebody who never had title, and thus do away with both the effects of a valid purchase or of title otherwise acquired according to the laws of the land.

We shall not refer your Honors to the decisions of the Supreme Court of Panama, except to say that they all state the law to the effect that Article 2526 refers to ordinary prescription, to-wit: prescription under title to property or prescription of ten years.

We feel that we have taken too much of the time of the Court in discussing Judge Jackson's mistakes. They have all since been set right. First, by the Circuit Court of Appeals; second, by Judge Jackson's successor, who tried the case after it was remanded, in order to more fully find the facts; third, by the Circuit Court of Appeals on the second appeal.

We, therefore, respectfully submit that the judgment of the Circuit Court of Appeals of the United States in this case should be affirmed.

EDWIN T. MERRICK,
RALPH J. SCHWARZ,
Of Counsel.

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1922

No. ~~572~~ 113

DOMINGO DIAZ, ET ALS,
Appellants,

versus

GUILLERMO PATTERSON,
Appellee.

Appeal from the United States Circuit Court of Appeals for the Fifth Circuit.

Motion to dismiss or affirm

BRIEF IN BEHALF OF GUILLERMO PATTERSON, DEFENDANT AND APPELLEE.

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1922

No. 572

DOMINGO DIAZ, ET ALS,

Appellants,

versus

GUILLERMO PATTERSON,

Appellee.

Appeal from the United States Circuit Court of Appeals for the Fifth Circuit.

BRIEF IN BEHALF OF GUILLERMO PATTERSON, DEFENDANT AND APPELLEE.

Now comes Guillermo Patterson, appellee, and moves the Court to dismiss the appeal in this case, for the reasons:

(1) That no questions of law or fact are involved in this case, all questions of law having been decided by the

Court of Appeals for the Fifth Circuit on February 9, 1920, in the case of *Patterson v. Diaz, et al., No. 3282*, of the docket of said Court, and no appeal having been taken from said judgment; that on said date the case was remanded in order that the Judge of the District Court should fix the boundaries only of the property in contest, and the appellants in this case acquiesced in said judgment.

That said Judge of said District Court did fix said boundaries and thereupon the plaintiffs in this case again sued out an appeal to the Circuit Court of Appeals for the Fifth Circuit, and although no error was assigned upon the finding by the trial Judge that the record title was in appellee, and although it was not seriously contended in the Circuit Court of Appeals on said second trial that there was no testimony to support the findings of fact.

That upon said second appeal to said Court of Appeals for the Fifth Circuit the said Court, in suit No. 3835 of its docket, entitled *Diaz et al. v. Patterson*, affirmed the findings of the District Court for the Canal Zone.

(2) That none of the testimony in this record on the second trial in the District Court was reduced to narrative form in the Court of Appeals, or in this Court, as required by Equity rule 75, although the said record of testimony takes up six hundred pages of the printed transcript.

(3) That the original petition, exceptions and answers, and the original pleadings and judgment of the District

Court are entirely missing from the record before this Court, and no praecipe was filed with the clerk of the District Court, as required by Equity rule 75, so that the diminution of the record is entirely the fault of plaintiff and appellant.

That for the foregoing reasons the said appeal is clearly frivolous and oppressive, and should be dismissed, or the judgment of the Circuit Court of Appeals for the Fifth Circuit, appealed from should be affirmed, with 10% damages, as being clearly sued out for delay.

E. T. MERRICK,
R. J. SCHWARZ,
Attorneys for
Guillermo Patterson.

Please take notice that on the _____ day of _____ 1922, the motion of which the foregoing is a copy, will be submitted to the Supreme Court of the United States for the decision of the Court thereon. Annexed hereto is a copy of the brief of Appellee in support of this motion.

E. T. MERRICK,
R. J. SCHWARZ,
Attorneys for
Guillermo Patterson.

STATEMENT OF THE CASE.

This is an action brought by Domingo Diaz against Guillermo Patterson, claiming title to certain real estate situated in the Canal Zone.

The title of Guillermo Patterson runs back to 1695, but on the first trial of this case in the United States Court of Appeals, and in the lower Court, both the title and the prescription by possession were pleaded, and the Judge of the District Court of the Canal Zone decided this case in favor of Domingo Diaz and against the appellee, Guillermo Patterson, on October 24, 1918, decreeing that Domingo Diaz was entitled to the property in controversy, being a large portion of the plantation of the said Patterson. The case was appealed to the United States Circuit Court of Appeals for the Fifth Circuit, and the judgment of the District Court was reversed, and the case was remanded for the purpose of having the Judge of the District Court of the Canal Zone locate the boundaries of the property, in accordance with the opinion of the Court. On said first trial in the Circuit Court of Appeals, the Court said:

> "It appears from the record that the decree appealed from was based upon the conclusion that the plaintiffs had acquired by prescription the ownership of the land sued for, without that land having been possessed by them, or by any one through whom they claimed, and though their petition did not assert the claim that they were by prescription entitled to that land. The Court erred in so concluding.

"What has been said indicates the grounds which are deemed to support the conclusion reached that the case was disposed of on a theory inconsistent with the law applicable to the facts disclosed by the pleadings and the evidence adduced. There was conflicting oral testimony as to the possession of the land in dispute. There was such evidence tending to prove that the defendant and those to whose rights he succeeded were, for more than 30 years immediately preceding the bringing of the suit, continuously and uninterruptedly in possession under claims of ownership of land which the decree appealed from adjudged to the plaintiffs. If that evidence was such as to require a finding in accordance with it, a result would be that the defendant was entitled by prescription to disputed land so possessed. There was no finding for or against what that evidence tended to prove. Such evidence, and that in conflict with it, can be weighed by the trial Court better than by this Court. A good deal of the oral testimony, as it is disclosed by the record before us, is unintelligible, because nothing in the record, including the maps which have been made a part of it, enables us to determine the location of places and objects mentioned by witnesses. The proper determination of issues of facts presented calls for the weighing of oral testimony by the tribunal before which that testimony was given. The record discloses that, in consequence of a misconception of what is the law applicable to the case, this was not done in the trial now under review.

"For the reasons indicated, the conclusion is that this Court, without undertaking to pass on the conflicting evidence, should reverse the decree and re-

mand the cause for further proceedings not inconsistent with this opinion; and it is so ordered.

"Reversed."

Patterson v. Dias, 262 Fed., 903, 904.

Under these explicit instructions, when the case was remanded to the Judge of the District Court for the Canal Zone, Judge Hanan, who replaced Judge Jackson, the Judge who first decided the case in the lower Court, found the facts to be in favor of Guillermo Patterson, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72.

The plaintiffs in this case, on the second trial before the United States Circuit Court of Appeals, never questioned, and could not question, the fact that the findings of the District Court judge were based on evidence. The case was remanded for the trial Judge to find the facts and he did so. The appellants cannot contend that there was not a great deal of evidence tending to show the title and possession of defendant and appellee, but if this were not conclusive, the plaintiff and appellant did not except to the following findings of the trial Judge:

"24. The Court finds as a matter of fact that the defendant has established a recorded title to all the lands in controversy from the present time by an unbroken chain of title to the original grant from the Spanish Government to Tomasa Ramos, the defendant's predecessor in interest, in the year 1696." *68, 69.*

(See the twelve so-called assignment of errors, pages 118, 119, 120, 121.)

No exception was taken to this finding of fact.

"28. That by virtue of a petition of one Mrs. Catalina Lewis de Paredes as heir of one Ramon G. de Paredes, the Estate of Lo de Caceres was sold at auction by the first Circuit Judge of Panama Republic of Colombia; and at said sale said estate was purchased by the said Mrs. Catalina Lewis de Paredes; she receiving as vendor the same money which she deposited with the Judge as vendee. That said sale was opposed by the defendant, Guillermo Patterson, for the reason that in the advertised notice of sale a part of the land of Mata Redonda was included, but the Judge who made the sale refused to allow the defendant to intervene or oppose the same upon the grounds that a Revolution was in progress, and by executive decree the Courts were closed for all civil litigation.

"That on account of this simulated sale by Mrs. Catalina Lewis de Paredes to herself, a title was recorded to Lo de Caceres estate, including the lands now in dispute, to Mrs. Catalina Lewis de Paredes; but the said Catalina Lewis de Paredes did not enter into possession of the lands in dispute and exercised no acts of possession over them, but all of this time the defendant, Guillermo Patterson, was in actual, open, hostile, notorious and adverse possession of all of the lands in dispute, and through his predecessors in interest has been in such possession uninterruptedly since the year 1790."

"29. That thereafter, the said Catalina Lewis de Paredes, by public deeds, conveyed to her children eight-ninths of the estate of Lo de Caceres, and thereafter, she and her said children conveyed the

entire estate of Lo de Caceres, including the lands in dispute, to General Domingo Diaz, the predecessor in interest of the plaintiffs herein." (pp. 69, 70.)

No exception was taken to these findings of fact.

The opinion of the Circuit Court of Appeals for the Fifth Circuit, covers the case fully on this point. We, therefore, quote this opinion in full *(261 Fed., 394)*:

"The case is fully stated in 262 Fed., 899, upon a former appeal. There a decree in favor of the original plaintiffs and present appellants was reversed, and the case remanded for findings upon the evidence as to possession of the land in dispute.

"Upon the evidence then in the record, and upon additional evidence taken since, the trial Court has found that the original defendant Patterson, appellee here, has been in actual adverse possession for more than 30 years, and, further, that appellants have never been in possession of the lands in dispute. The Court also finds as a fact that appellee established record title.

"Appellants do not assign error upon the finding that record title is in appellee, nor is it seriously contended that there was no testimony to support the other findings of facts. Some contention is made as to the credibility of witnesses for appellants, but the District Judge heard the witnesses testify, and also viewed the lands. There is abundant evidence to support the finding of fact as to appellee's possession, but no useful purpose would be served by setting it forth.

"The principal argument for reversal of the decree below is upon the question of law decided upon the former appeal. It is again argued that the mere recording of a deed by one claimant interrupts the actual possession of an adverse claimant under a previously recorded title. We are convinced that this is not the law, and adhere to our former opinion.

"The decree is affirmed."

Diaz v. Patterson, 281, Fed., 394.

We think under repeated decisions of this Court that the findings of the District Court, at least when affirmed by the Court of Appeals, will not be disturbed, and we think the Court will allow the appellant damages for a frivolous appeal, under R. S. 1010. *Dierning v. Carlisle Packing Co., 226 U. S., 102; Texas & Pacific v. Prater, 229 U. S., 177.*

The law of this case was passed upon by the Court of Appeals and the case was remanded to fix the boundaries, and plaintiffs did not appeal to this Court on the law, when the questions of law were decided in the first opinion *(Diaz v. Patterson, 262 Fed., 903)*, but acquiesced therein, and went back to the Canal Zone to take testimony to fix the boundaries. These boundaries having been fixed by the District Court, and having been approved by the Circuit Court of Appeals, will not be disturbed by your Honors, and the judgment will, we think, be affirmed, with damages, under the repeated decisions of this Court. We regard the case of *Bodkin v. Edwards, No. 495* of the docket

of this Court, decided in the October term of 1920, on February 28, 1921, as conclusive. Mr. Justice Van Devanter in that case says:

> "The motion to dismiss must be denied and the one to affirm sustained. The case, as presented here, turns essentially on question of facts. Both Courts below, on a review of the evidence, have found the facts in the same way. This Court, under a settled rule, accepts such concurring findings unless clear error is shown. Page v. Rogers, 211 U. S., 575, 577, 53L. Ed., 332, 333, 29 Sup. Ct. Rep., 159; Washington Securities Co. v. United States, 234 U. S., 76, 78, 58 L. Ed., 1220, 1222, 34 Sup. Ct. Rep., 725; Wright-Blodgett Co. v. United States, 236 U. S., 397, 402, 59 L. Ed., 637, 639, 35 Sup. Ct. Rep., 339; National Bank v. Shackelford, 239 U. S., 31, 60 L. Ed., 158, 36 Sup. Ct. Rep., 17. No such error is shown by the record before us. Besides, it does not contain all the evidence that was before the Courts below, a part having been omitted under the appellant's specification of what should be included. In these circumstances, to retain the case for oral argument in regular course would result in harmful delay and serve no useful purpose.
>
> "Decree affirmed."
>
> *Bodkin v. Edwards, U. S. Supreme Court Advance Opinions, No. 10, April 1, 1921, p. 342, decided February 28, 1921.* 255 U.S. 223

We would, therefore, prefer to have the appeal affirmed with damages, though the appeal could very well be dismissed, for the reason that no praecipe was filed in ac-

cordance with the 75th Equity Rule, paragraph (a), and record obviously omits the first pleadings filed in the case, plaintiffs' suit, defendant's exceptions and answers, the opinion of the Court, and the judgment of the Court, which were passed upon in the first appeal, quoted in the 262d Federal Reporter, at pages, 899, 900, 901, 902, 903 and 904. The plaintiff and appellant has not made the slightest effort to comply with Equity Rule 75 (b), as your Honors will see from the first six hundred pages of the printed record, since there has not been the least attempt made to reduce the evidence to narrative form. The only reason that the remaining evidence was reduced to narrative form, namely, the last seven hundred pages, was because the first judgment rendered by Judge Jack, Judge of the District Court for the Canal Zone, was adverse to the defendant in this case, who was forced to take an appeal to establish his rights, and took the trouble to comply with the rules of the Supreme Court.

In the case of *Consolidated Gas Company* of New York against *Charles D. Newton, No. 288*, of the docket of the October term of 1921, decided on March 6, 1922, the Court says, through Justice McReynolds: 258 U.S. 173, 174

> "Equity Rules 75 and 76 direct that records on appeal shall not set forth the evidence fully, but in simple, condensed form, and require omission of non-essentials and mere formal parts of documents. Without apparent attempt to comply with these rules, and with assent of appellee's counsel, appellants in No. 257, have filed a record of 21 volumes,

—twenty thousand printed pages—made up largely of stenographic reports of proceedings before the master, with hundreds of useless exhibits and many thousand pages of matter without present value. This is indefensible practice, which we shall hereafter feel at liberty to punish to the limit of our discretion, possibly by dismissal of the appeal. These rules were intended to protect the Courts against useless, burdensome records, and litigants from unnecessary costs and delay. Counsel ought to comply with them, and trial Courts should enforce performance of this plain duty."

Newton v. Consolidated Gas Co., U. S. Supreme Court Advance Opinions, 1921-1922, No. 11, April 15, 1922, page 307, decided March 6, 1922. 258 U.S. 165

In a later case, namely, the *City of Houston v. Southwestern Bell Telephone Co.*, decided on May 29, 1922, being Nos. 219-220 of the docket of this Court, of the October term of 1921, your Honors affirmed the judgment and said:

"(6) Equity Rule No. 75 (33 Sup. Ct., XI) provides that evidence to be included in the record shall not be set forth in full but shall be stated in a simple and condensed form, and rule 21 of this Court (32 Sup. Ct., X) provides that briefs of the argument shall be filed in each case, with references to the pages of the record and the authorities relied upon in support of each point. The first of these rules has been wholly ignored in the printing of this record and the second has been so neglected in the preparation of the briefs that it is impossible for the Court to consider this question except by itself

reading and briefing the voluminous record. This we cannot consent to do, and for the reason that the record and briefs are not prepared in conformity with the rules prescribed by this Court, we decline to consider this assignment of error."

City of Houston v. Southwestern Bell Telephone Co., Supreme Court Reporter, Vol. 42, No. 16, July 1, 1922, page 489, decided May 29, 1922.

257 U.S. 318

In view of the foregoing authorities, we think the Court will see its way clear to affirm this judgment, with the damages for a frivolous appeal.

Respectfully submitted,

E. T. MERRICK,
R. J. SCHWARZ,
Of Counsel.

Office Supreme Court, U. S.
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WM. R. STANSBURY
CLERK

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1923.

No. 113.

DOMINGO DIAZ ET AL., APPELLANTS,

vs.

GUILLERMO PATTERSON.

BRIEF IN REPLY IN BEHALF OF GUILLERMO PATTERSON, APPELLEE.

EDWIN T. MERRICK,
RALPH J. SCHWARTZ,
Counsel for Appellee.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1923.

No. 113.

DOMINGO DIAZ ET AL., APPELLANTS,

vs.

GUILLERMO PATTERSON, APPELLEE.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

BRIEF IN REPLY IN BEHALF OF GUILLERMO PATTERSON, DEFENDANT AND APPELLEE.

We have read with astonishment plaintiffs' petition in this case. They have attempted in this court to urge that other parties than the plaintiffs and the defendant are interested in the decree of the lower court, and that proper parties were prayed for by the plaintiff and not made in the lower court.

They say they asked for these parties in interest to be brought before the court. Among other things, they quote in their brief, page 3, from the prayer of the amended petition as follows:

> "That the defendant be required to set forth the nature of his claim, *and that all adverse claims be determined by this Court*, that by said decree it be declared and adjudged that plaintiffs are the owners of said lands and entitled to the possession thereof, and that defendant has no estate nor interest whatever in or to said land, and that defendant be forever barred from asserting any claim whatever in and to said land and premises adverse to plaintiffs, and for such other and further relief as to equity shall seem meet and proper."

The old record is not before the court, but we have a copy with us and will leave it with the clerk.

This petition cannot be found in the present record, but by turning to the original or old Circuit Court of Appeals' record, on page 8, your Honors will find that the statement is not true, for the reason that three important words which entirely change the character of the prayer have been omitted and the correct prayer reads as follows:

> "Wherefore, plaintiffs pray judgment that the defendant be required to set forth the nature of his claim, and that all adverse claims OF THE DEFENDANT be determined by decree of this Court, and that by said decree it be declared and adjudged that plaintiffs are the owners of said lands and entitled to the possession thereof, and that defendant has no estate nor interest whatever in or to said land and premises, and that defendant be forever debarred from asserting any

claim whatever in and to said land and premises adverse to plaintiffs, and for such other and further relief as to equity shall seem meet and proper; and plaintiffs will ever pray."

Your Honors will see that the omission of the words "of the defendant" in plaintiffs' quotation disposes of plaintiff's argument altogether. Nor is this all. The plaintiff shows that there was never any claim made by plaintiff that there were any other parties than plaintiffs and defendant interested in this case (First Record, 7, 12th paragraph). The entire suit is leveled against Guillermo Patterson, and it is made clear that no one else has an interest (First Record, p. 8). They admit this because in the amended petition filed April 14, 1921, they directed their claim solely against defendant (R., 14, 10th paragraph).

The first part of the quotation on page 5 of the brief of plaintiff is not in the first record, though some such claim is made in different language and not as quoted. The opinion of the learned judge, who has now become the advocate of the plaintiff, is entirely missing from the record. This is alone ground for motion for dismissal or affirmance. We hesitate very much to discuss opponent's brief, because it is based upon parts of the record not brought up in this case.

Plaintiff's original petition and the opinion of Judge Jackson deciding this case in favor of Diaz cannot be found in the Supreme Court record.

They are not before the court, but since our adversary has cited them and they formed a proper part of the transcript, we have to refer to the old Court of Appeals record without waiving our right to dismiss or affirm.

An inexcusable error will also be found on pages 6 and 7 of plaintiff's brief.

They quote from the U. S. Circuit Court of Appeals decision (Patterson v. Dias, 262 F., p. 900), a citation from Art. 2520 of Civil Code of Canal Zone—leaving out the last clause of the article—and they say the Circuit Court omits that last part of article in its citation of it. This is not true.

Plaintiff's case seems to be based upon two points. The first point, the want of proper parties, can be disposed of on the following grounds:

First. That in every rule of pleading the plea of want of proper parties should be filled in *limine litis*.

Second. There is no record before this court of any adverse claimants.

Third. If any adverse claimants to these proceeds of the sale of defendant's real estate in the Canal Zone are missing, it is because the plaintiff did not make proper parties, and the omission is attributable entirely to him.

Fourth. That the trial court found, as a fact, that the disposal of $26,160 in the registry of the court belonged to the defendant as between plaintiff and defendant (Second Finding of Fact, R., 62), and

Fifth. It's none of plaintiff's business as to where the proceeds of the sale of this property goes, since it has been adjudged that he has no interest in it, and adversaries, on page 19 of their brief, say that "It was the duty of the court on its own motion to cite all parties when its attention was called to the matter." The answer to this is that the attention of the court was never called to the claim of any other parties by plaintiffs.

The second point is that the Court of Appeals erred in reversing Judge Jackson's decree on the first appeal and erred in reaffirming the established law of the case on the second appeal by what is called an erroneous opinion. To this we answer, first, that the judgment of the Court of Appeals on the first appeal established the law of the case, and that judgment has never been appealed from and is *res judicata*. An almost similar case was decided by your Honors in the case of the Last Chance Mining Company v. Tyler Mining Company, 157 U. S., p. 690. In the first litigation between the Last Chance Mining Company and the Tyler Mining Company it was claimed by one of the parties that they had a prior claim on the mine. An answer was filed by the other party and subsequently withdrawn, but a decree was rendered in the case declaring, according to the writer's recollection, that the Last Chance Mining Company had the prior right. Subsequently the litigation was renewed between the parties and the appellate court permitted the parties to open up the case as to priority of claim, and upon an appeal to this court your honors held that the first decision was *res judicata*.

We don't think it needs any argument to urge this court to hold that in the first decision, when the U. S. Circuit Court of Appeals laid down the law of the case and no appeal was taken from that to this court, so, when the second appeal was taken and the Court of Appeals sustained its previous decision, it did only that which it had to do, because, as between the parties, the judgment was final as to the law.

Our second answer to the point that the Court of Appeals erred is that the judgment was correct and in accordance to the law of the Canal Zone because it was the first decision rendered, so far as we know, on that subject. It was correct

as to the law of the Republic of Panama, because notwithstanding the decision cited by our learned adversary there have been many other and previous decisions directly to the contrary from the courts of Columbia and the courts of the Republic of Panama.

The Supreme Court of Columbia, in an opinion handed down on September 6, 1894, states:

> "4339. The provision in Section 2526 of the Civil Code, according to which acquisitive prescription of real property does not obtain against a recorded title, except by virtue of another recorded title, is applicable only when dealing with ordinary prescription, since it is then only when the prescriber needs a registered title in order that his possession may be considered as regular possession; but dealing with extraordinary prescription there is no necessity of any title any more (Sec. 2531); it suffices in this case that the one who alleges prescription should show that his possession has been neither violent nor clandestine, and that it has been continuous for thirty years. This is called extraordinary prescription because it is beyond the rules set forth for other kinds of prescription.
>
> "If Section 2526 should always be applied to the letter rigidly referring to both ordinary and extraordinary prescription, the latter as a matter of fact would be extinguished and thus there would be a contradiction to the philosophical principle and to the principle of justice on which prescription is based, which from its origin in the Usucaption of the Romans to our days has as main object the avoidance of law suits and to give firm basis to property. Without prescription no one could be sure of his property, on account of the difficulty in presenting the rigorous chain of deeds by which his predecessors in interest acquired the land from the beginning of time; and those among us who

would have bought the real property by means of a private instrument (as it was permissible under the Spanish Legislature), and would have lost that instrument, would have no means of defense against the usurper who would snatch his property away from him. (Jurisprudence de los Tribunales Superiores de Columbia, page 334.)"

This question has also been settled by the Supreme Court of Panama on October 5th, 1892, as follows:

"4306. For acquisitive prescription there are five essential requirements in order that it should exist, which requirements are admitted likewise in Roman, Spanish, and in our own civil Legislature. They are as follows: 1, just title; 2, good faith; 3, continuous possession; 4, prescriptibility of the thing, and 5, lapse of time fixed by the statute of limitation. (Jurisprudencia de los Tribunales Superiores de Columbia, page 336.)"

Without the above-mentioned requirements no one can acquire land by prescription, no matter how nor when his title was recorded. Actual possession and all other requirements are necessary for ordinary prescription according to Section 2526 of the Civil Code, Canal Zone, and then prescription begins to be counted from the date of the last record of the two original titles, and only in favor of the one who has actual possession besides, being their right otherwise thoroughly equalized. This has also been specifically determined by the Supreme Court of Columbia in an opinion handed down on May 25, 1896, as follows:

"4291. It is not enough to have a registered title in order that prescription should begin in one's favor; it is necessary besides to be really and truly in actual

physical possession of the thing; because possession, the basis of prescription, must be clearly shown before the eyes of those who could believe themselves to be owners, by means of open acts, the same that the true owners would exercise daily, such as sowing, fencing, renting and others which imply domain. (Jurisprudencia de los Tribunales Superiores de Columbia, page 333.)"

We have already called your Honor's attention to the fact that the Supreme Court of Panama, in an action of trespass brought by the plaintiff in this case, Diaz, decided in unequivocal language that the possession of Mata Redonda to the Portobello road has been in Mr. Patterson for a long period of time (R., 779, 780)."

While we are on the subject of possession, we wish to call attention to our adversaries' brief, to what he says, page 5:

"First, both parties claim actual physical possession and there was proof tending to show actual physical possession in each of undetermined parts and at various periods.

"Second, it is doubtful if actual physical possession of the whole is shown or can by legal requirements be shown in either by actual physical possession of parts."

These two quotations, we think, are so misleading, in so far as they attempt to cast a doubt on defendant's *possession* of the property, that we must call the court's attention to them. By looking at the original record your Honors will find that Judge Jackson admitted the possession of defendant in the opinion by the following:

"There does not seem to be any doubt whatever that the defendant *had acquired by* 1869 *by pre-*

scription a portion of the lands purchased in 1832 by the plaintiff's predecessors in interest, but the question to decide is whether title so acquired continues to the present time."

He then goes on to say that by reregistry of title the plaintiff regained what they had lost by prescription, though he admitted that Patterson, the defendant, was in possession all this time.

We also claim that the opinion of the United States Circuit Court of Appeals as to the property in question, being the first one rendered, is controlling and particularly it is the law of the *situs*.

The courts have decided that this land belongs to Patterson. The solicitude of the plaintiff for other claimants is wasted. Our experience is that other claimants, if there are any, are perfectly capable of looking after their own rights. We had heard that the plaintiffs were making every effort known to human ingenuity to prevent the defendant from getting possession of the property. We hardly thought, however, that they would attempt to bring to bear the influence of a minister of a foreign country on the highest court in this or any other land. Our idea was that claims made by one government upon another were made through the Department of State, but the letter to the clerk of the highest court of our land, written by the minister of the Republic of Panama and published in our adversaries' brief, page 17, seems to be something new in the history of our courts.

Respectfully submitted,

EDWIN T. MERRICK.
RALPH J. SCHWARZ.

Dated Nov. 27, 1923.

DOMINGO DIAZ A., ET AL. *v.* PATTERSON.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT.

No. 113. Argued November 28, 1923.—Decided December 10, 1923.

1. Owners of a registered title to land in the Canal Zone who are in possession and have maintained it for the period of extraordinary prescription (Civ. Code, Art. 2531,) cannot be disseized and deprived of the property by the mere registration of what purports to be a conveyance by a stranger to the title and subsequent lapse of the ten year period of ordinary prescription. Civ. Code, Art. 2526. P. 400.
2. Reasons for following local decisions in Porto Rico, with its own peculiar system of law, do not apply in the same degree to the Panama Code in its present application to the Canal Zone. P. 402.
3. A decision of the Circuit Court of Appeals reversing a decree of the Court of the Canal Zone, held not *res judicata* on second appeal to the former court or on review of its final decision here. P. 402.
4. Failure of the court to order notice to unknown claimants in a suit over title to land will not avail a plaintiff who fails to establish any title or interest in himself. P. 402.

281 Fed. 394, affirmed.

APPEAL from a decree of the Circuit Court of Appeals affirming a decree recovered by the defendant, here appellee, in a suit brought by the appellants in the United States Court for the Canal Zone to confirm their title to a tract of land and, later, to the money for which it was expropriated by the United States.

[1] *Hill* v. *Wallace*, 259 U. S. 44; *Booth* v. *Illinois*, 184 U. S. 425, 428; *Allgeyer* v. *Louisiana*, 165 U. S. 578; *New York Life Insurance Co.* v. *Dodge*, 246 U. S. 357; *Adams* v. *Tanner*, 244 U. S. 590. Some state cases were cited.

Mr. William H. Jackson for appellants.

Mr. Edwin T. Merrick, with whom *Mr. Ralph J. Schwartz* was on the briefs, for appellee.

MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a suit by the heirs and representatives of Domingo Diaz against Patterson alleging their possession of an estate known as Lo de Caceres in the Canal Zone and an adverse claim set up by Patterson. It prays that the petitioners may be confirmed in their title and, by an amendment, that all parties claiming any interest in the land may be summoned to appear in this case and that the petitioners may be declared entitled to a fund deposited in the registry of the Court, since this suit was begun, upon expropriation of the land by the United States. At the first trial the petitioners obtained a decree, but as material questions of fact had not been decided by the Judge the decree was reversed by the Circuit Court of Appeals. 262 Fed. 899. At the second trial there was a careful finding of facts and a decree for the defendant, Patterson, which was affirmed by the Circuit Court of Appeals. 281 Fed. 394. The petitioners appealed to this Court and contend that they have been denied rights conferred upon them by the laws of the Canal Zone.

The trial Court and the Circuit Court of Appeals have found that the defendant has established recorded title to the land by an unbroken chain from the original grant from the Spanish Crown in 1695, and also that he and his predecessors have held open, uninterrupted, and notorious possession of the same since 1790. These findings we shall not disturb. The facts relied upon by the petitioners are that there was a sale in 1832, afterwards set aside, purporting to convey the land; that the heir of the grantee made a simulated sale to herself, and that this

fictitious title was recorded in 1895, although none of the grantees ever was in possession at any time, or brought any action until 1917, in which year the present suit was begun. The ground of this extraordinary claim is found in Art. 2526 of the Civil Code of Panama. "The acquisitive prescription of real property or of real rights constituted therein does not obtain against a recorded title, except by virtue of another recorded title, nor shall it begin to run but from the date of the record of the second." The petitioners contend that the effect of this Article is that the mere recording of what purports to be a conveyance by a stranger to the title who is and remains out of possession, will give to the grantee a good title by what is called the ordinary prescription of ten years, Art. 2529, notwithstanding the requirement of regular uninterrupted possession for that result in Art. 2528. It is argued that constructive possession follows the record and is enough, and it is supposed that this transaction will defeat the previous registered possession and title by ordinary prescription although by Art. 789 that possession does not cease until the record is cancelled, by consent, or by a transfer from the registered possessor, or by a judicial decree. It is supposed also to destroy a title complete by the extraordinary prescription of thirty years to which "no title whatsoever is necessary" Art. 2531.

The effect attributed to Art. 2526 depends in part upon its operation after the Canal Zone was taken over by the United States as the ten years had not run when the Zone was transferred. It would be extreme to construe the article as meaning something different now from what it would have meant before the transfer. Taking it simply as a law of the United States we should see no reason for attributing to it the unjust operation contended for. It is not necessary to consider what such a registration might do in the way of interrupting a pre-

scription not yet complete, but we see no sufficient ground for converting it into a disseizin when the previous owners maintain their possession undisturbed under a registered title in favor of which prescription already has run. If we recur to the origin of the law we do not believe that a different view would be taken in Panama. But the considerations that have been urged for following local decisions in places like Porto Rico having their own peculiar system, do not apply in the same degree to a code that in its present application governs a predominantly American population and derives its force from Congress and the President. *Panama R. R. Co.* v. *Bosse*, 249 U. S. 41. The opinion of the Circuit Court of Appeals on the first appeal was not *res judicata* or conclusive here, as the defendant seems to suppose, *Remington* v. *Central Pacific R. R. Co.*, 198 U. S. 95, 99, 100; *Messenger* v. *Anderson*, 225 U. S. 436, 444; but we are of opinion that upon the question before us it was right.

The petitioners attempt to fortify their case by the absence of an order calling upon the rest of the world to come in and assert whatever claim anyone may have to the fund in the registry of the Court. The purpose of the suit was to remove Patterson's claim to the land. He alone was made a party. It does not concern the petitioners after their failure to establish either possession or title, whether some third person has a better title than Patterson or what precautions the Court shall take before giving him the fund that has taken the place of the land.

The record is at once defective and unduly prolix, and this and other considerations perhaps might have warranted a dismissal of the appeal. But as both parties desired a decision upon the merits and as the costs will fall upon the appellants we have thought it better to indicate our opinion that the reasons for the appeal are untenable and that the decree should be affirmed.

Decree affirmed.